

AGENDA

Employment Panel

Date: **Tuesday 10 May 2016**

Time: **2.30 pm**

Place: **Committee Room 1, Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

Ben Baugh, democratic services

Tel: 01432 261882

Email: bbaugh@herefordshire.gov.uk

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Agenda for the Meeting of the Employment Panel

Membership

Chairman

Councillor AW Johnson

Vice-Chairman

Councillor PM Morgan

Councillor H Bramer

Councillor RI Matthews

Councillor AJW Powers

AGENDA

	Pages
1. APOLOGIES FOR ABSENCE To receive any apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY) To receive details of any member nominated to attend the meeting in place of a member of the panel.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by members in respect of items on this agenda.	
4. MINUTES To approve and sign the minutes of the meeting held on Monday 18 January 2016.	7 - 10
5. CONFIRMATION OF DESIGNATION OF STATUTORY OFFICER (MONITORING OFFICER) To recommend to Council permanent arrangements for the designation of a post as monitoring officer.	11 - 14

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Employment Panel held at Committee Room 1, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Monday 18 January 2016 at 10.00 am

Present: Councillor PM Morgan (Chairman)

Councillors: BA Baker, H Bramer, RI Matthews and AJW Powers

Officers: Annie Brookes, Alistair Neill and TJ Postles

10. APOLOGIES FOR ABSENCE

Apologies were received from Councillor AW Johnson.

11. NAMED SUBSTITUTES (IF ANY)

Councillor BA Baker substituted for Councillor AW Johnson.

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. MINUTES

Resolved:

That the minutes of the meeting held on 11 September 2015 be approved.

14. PAY POLICY STATEMENT 2016

The chief executive presented the draft pay policy statement, noting the positive reduction in interim senior management posts since the previous year's report, including appointment to the substantive posts of director of adults and wellbeing, assistant director adults and wellbeing commissioning, assistant director safeguarding and family support, and the director of resources. The success of these appointments demonstrated that the council was able to meet market demand and recruit high quality professionals.

The chief executive provided an update on consideration of options for the introduction of the living wage. Following the government's requirement for employers to adopt the national living wage from April 2016 work had not been progressed on options to introduce the more costly optional living wage foundation rate. Should the national pay negotiations result in adoption of a higher rate of pay for future years, the medium term financial plan would be adjusted accordingly.

The chief executive summarised aspects of the report. Key points included:

- The estimated costs of implementing the £7.20 minimum wage which must be implemented by April 2016 had been accounted for in the 2016/17 budget and in the medium term financial strategy for future years.
- Whilst the council was responsible for the additional costs arising from the statutory national living wage rate introduction for council employees (including schools), in general contractors retained responsibility for the additional costs arising for their own employees.

- Implementation costs are considered for different elements of council business, noting that the greatest absorption of cost is in the use of contractors.
- Very few new employees entering the authority recently were at a level below the national living wage.
- It was concluded that implementing the Living Wage Foundation wage rate of £8.25 would have a significantly greater adverse impact on the council's finances than implementing the statutory national living wage rate of £7.20.
- The national living wage would only be a statutory requirement in relation to employees aged 25 and over; this would create an aged based differential in pay which does not currently exist in Herefordshire, and engagement with trade unions over this issue would be undertaken.
- As negotiations over implementation were still ongoing at a national level, the rate of adoption of the national living wage may be subject to change.

Responsibility for national living wage implementation costs

The council was responsible for the costs of implementing the national living wage in respect of its own employees and for those in council maintained schools. The following additional points were noted:

- Implementation costs for employees of council contractors would only be the responsibility of the council where contracts so specified (eg in cases where TUPE regulations still applied).
- Contractors would otherwise remain liable for the costs of implementing the national living wage for their employees. Any potential impact these additional costs may have on the level or range of service provided would be a matter for negotiation between individual contractors and the council.
- Some provision against such costs had been made in the medium term financial strategy, and projections would be reviewed annually to take account of changes in staffing numbers, contractual commitments, national pay negotiations and any further legislative change

Wage differentials

There was discussion of the potential impact the introduction of the national living wage may have on wage differentials across the pay scale of the organisation, where raising levels of pay for those on low pay grades could require simultaneous adjustments across the whole pay structure. The key points included:

- While only a very small number of staff were not currently in receipt of the national living wage and that there would only be a minor cost involved in resolving this; proportionate adjustment of wage differentials across the organisation, within an objectively job evaluated structure, could have more significant resource implications. It was noted that the fact that those under the age of 25 not being required to be paid the national living wage may mitigate this impact.
- The chief executive emphasised that a proportional adjustment of wage differentials in order to increase director level wages was not being considered.
- Negotiations with trade unions on this issue were at an early stage due to the recent nature of legislative change.
- A proportional increase of wage differentials could constitute a significant increase in payroll expenses for a minimal direct improvement in service provision.
- Changes to the pay spine structure negotiated nationally would have a local impact.

Draft pay policy statement

Panel members queried the inclusion of pay multiples identified in page 33, paragraph 39 of the report. It was explained that these were statistics which it was a statutory obligation to include and the way in which they were presented was also according to obligation.

The head of human resources identified a number of corrections to figures presented in the contract for services table on page 3 of the draft pay policy statement. The following amendments were made:

- The contract for services budget figure for the director of public health was amended to £57,200 with an FTE figure of 0.4
- The contract for services budget figure for public health consultants were amended to £66,000 with an FTE figure of 0.5, and £87,841 with an FTE figure of 0.8 respectively.
- The contract for services budget for the Enterprise Zone programme director was amended to £76,138 with an FTE figure of 0.8.

Members offered a number of ways in which the report could be better presented to council. Among suggestions were:

- Providing clear explanations over the legislative change and how this had affected the work around the report. To do so would better inform discussion between members at council and would also better inform members of the public.
- Providing an explanation over the issues surrounding contractors explaining the obligations of Herefordshire Council as well as making it clear which elements of the report were obligated.
- Providing breakdowns and methodology for statistics included in the report as well as identifying where figures had been projected and where figures were precise estimates, or instead providing a range of alternate projected figures
- The deputy monitoring officer explained that it would be practical to delegate authority to the monitoring officer to make minor amendments to the pay policy statement to keep it up to date. To provide clarity about circumstances in which changes would be undertaken by the monitoring officer it was agreed that the term "in year technical amendments" in recommendation B of the report be amended to "in year technical updates".

Resolved: That the following be recommended to Council:

- (a) The pay policy statement summarising existing council policies (at appendix A) be recommended to Council for approval;**
- (b) Authority be delegated to the monitoring officer, following consultation with the chief executive, to make in year technical updates to the statement to reflect changes to post holder details or approved changes to local or national pay policy; and**
- (c) Having regard to the introduction of the statutory national living wage effective April 2016 no further action be taken in response to Council's resolution to consider how to introduce the Living Wage Foundation living wage.**

The meeting ended at 11.10 am

CHAIRMAN



Meeting:	Employment panel
Decision date:	10 May 2016
Title of report:	Confirmation of designation of statutory officer (monitoring officer)
Report by:	Assistant director - communities

Classification

Open

Key decision

This is not an executive decision.

Wards affected

County-wide.

Purpose

To recommend to Council permanent arrangements for the designation of a post as monitoring officer.

Recommendations

THAT:

- (a) **it be recommended to Council that the post of solicitor to the council be designated as monitoring officer for Herefordshire Council.**

Alternative options

- 1 There are two alternative options identified in the course of the review to consider the council's requirement for monitoring officer:
 - a. that an external appointment process takes place to recruit from outside of the council.
 - b. that the function of monitoring officer is shared with another council.
- 2 Neither of these options are recommended as the majority of consultees favoured the option of making permanent the interim arrangements put in place in September 2015 and there is no outweighing benefit of not doing so.

Reasons for recommendations

- 3 The functions of the monitoring officer are a statutory requirement. Key stakeholders were interviewed on the basis of their preferred approach to the appointment of a

monitoring officer. The majority of consultees were in favour of making use of the in-house resource provided by the solicitor to the council (the post title having recently been altered from deputy solicitor to the council people and regulatory).

- 4 It is a matter for Council to designate a post as monitoring officer.

Key considerations

- 5 On the 11 September 2015 the employment panel recommended to Council that “the post of deputy solicitor to the council people and regulatory be designated monitoring officer for an interim period of up to nine months from the date of approval”. Full council agreed this recommendation on 25 September 2015.

- 6 This report considers options and makes recommendations for the permanent arrangements for the monitoring officer designation. Three options have been considered as outlined below.

- 7 Option 1: make the temporary arrangements permanent with the solicitor to the council (previously the deputy solicitor to the council people and regulatory) being designated monitoring officer. Though there is no requirement for the monitoring officer to be legally qualified, given the legal context in practice the tendency is to appoint a senior lawyer in the council. As part of this option the solicitor to the council would continue with the mentoring over the next year.

Advantages

- Relationships already formed with key stakeholders
- Key skills and requirements of the monitoring officer within the authority
- Career development opportunity
- Reasonable cost, including no cost for recruitment

Disadvantages

- Element of “learn on the job”
- Could create a pressure within the legal services
- Does not test the market of potential of other applicants

- 8 Option 2: To share a monitoring officer with another council providing expert knowledge. Expertise can be shared, though dedicated support would need to be assigned to Herefordshire Council.

Advantages

- High level of experience and track record
- Potential to share costs
- Sharing of best practice
- May strengthen cross county relationships (e.g. existing cross county working LEP, broadband, waste)

Disadvantages

- May be difficult to secure an appointment with the right skills, ability to commit, travel and availability
- Potential of conflicting demands (e.g. key meetings on the same date)
- May take longer to develop effective member relationships
- Timescale and resource for procurement process
- Risk of conflict of interest and one authority seen to be taking priority over another may cause reputational issues with members
- There have been eight monitoring officers since 2005 so further change may be de-stabilising

- 9 Option 3: recruiting a lawyer which has existing monitoring officer skills. This would mean they have the skills and experience already in place and would not need additional mentoring support, there might also be an opportunity in the longer term to “sell-on” expertise to other authorities. To cover the costs within budget this would mean displacement of existing staff.

Advantage

- Appoint someone with experience and track record
- Could bring experience/innovation/best practice
- Depending on other skills, may strengthen under resourced other areas (e.g. elections/legal)

Disadvantages

- Cost including redundancy
- Potential struggle to recruit
- Does not foster local skills development
- Time taken to develop relationships
- Further change may be de-stabilising.

- 10 As regards feedback from the consultation undertaken out of the 13 people interviewed 11 people preferred option 1. One preferred an open recruitment and another did not declare a preference and considered all three options could be viable. Additional points made:

- There are existing strong skills already within the council, proven since the temporary arrangements were made
- A good relationship has been established with key stakeholders, specifically council members
- It would be difficult to recruit better than the current member of staff who has the right attitude and skills set
- Balanced with having a strong internal candidate, internal appointment is the cheapest route
- There is limited evidence from the survey conducted with other councils that there is an appetite to share a monitoring officer role
- That there is knowledge development needed, therefore continue with the mentor for another year and make links with monitoring officers in other unitary councils.

- 11 Also as part of the process a survey was sent to other local authorities via the County Council Network to assess views of sharing the post of monitoring officer. There were three replies (that indicates the level of interest). Of those replies none operate or intend to operate a shared monitoring officer though did not rule out the opportunity of sharing resources in the future. A key concern was that a joint post could have the strong risk of creating conflict of interest.

Community impact

- 12 The functions of the monitoring officer support the maintenance and enhancement of robust governance across the council. This creates community benefit in creating a sound and correct authority. The monitoring officer has the specific duty to ensure that the council, its officers and its elected members maintain the highest standards of conduct in all they do.

Equality and human rights

- 13 The functions of the monitoring officer need to be mindful of the authority's requirement to meet the laws governing local government. This includes the Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.

Financial implications

- 14 The post of solicitor to the council has been job evaluated as grade HC13 in accordance with council pay policies (HC13: £51,824 to £56,165) with line management reporting to the head of law and governance. For the functions of monitoring officer, 40% of the role, the reporting line will be to the assistant director for communities and has been evaluated using the current Herefordshire Council pay scale at HoS2 (£70,682 to £74,550).
- 15 The cost of this post is included within existing law and governance budgets.

Legal implications

- 16 Section 5 of the Local Government and Housing Act 1989 imposes a duty on the council to designate one of its officers as monitoring officer; this may not be the head of paid service or the director of resources (section 151 officer).

Risk management

- 17 Challenge of recruitment – that complaint is made that proper recruitment has not taken place giving other external candidates the opportunity to apply. Mitigation – the monitoring officer is not a post but a set of functions that can be attributed to existing role, usually a senior lawyer within the authority.
- 18 Pressure of resources in the legal team – pressure on conducting legal duties. Mitigation – the recent redesign of legal and governance service identified new resource for legal team to address key initiatives and programme that need legal support.
- 19 Skills knowledge – that the lawyer to the council needs to build up skills and knowledge to be able to fully incorporate the role. Mitigation – that mentoring support continues for another year.

Consultees

- 20 In the course of preparing the options consultation was carried out with representatives from the senior management team, group leaders, scrutiny chairs and cabinet. An external mentor's views were also sought and the outcome of that consultation has informed the recommendation.

Appendices

None.

Background papers

None.