

BROMSGROVE DISTRICT COUNCIL

Council
2023

6th December

STATUTORY OFFICER POSTS - APPOINTMENTS

Relevant Portfolio Holder	Councillor Charlie Hotham Portfolio Holder for Finance and Enabling
Portfolio Holder Consulted	
Relevant Head of Service	Claire Felton
Report Authors Claire Felton & Becky Talbot	Job Title: Head of Legal, Democratic and Property Services Contact email: c.felton@bromsgroveandredditch.gov.uk Contact Tel: (01527) 64252 Job Title: Human Resources and Organisational Development Manager email: becky.talbot@bromsgroveandredditch.gov.uk Contact Tel: (01527) 64252
Wards Affected	NA
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	An effective and sustainable Council
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

That the Council **RESOLVE** that

- 1.1 **Mrs Susan Hanley continue to be appointed as the Interim Head of Paid Service for Bromsgrove District Council until 30th November 2024, or, if the date is later, until such time as a new permanent Head of Paid Service has commenced employment with the Council.**
- 1.2 **Following Mrs Hanley’s resignation from her substantive position as Deputy Chief Executive, Mr Peter Carpenter be appointed as Interim Deputy Chief Executive and Interim Executive Director of Resources (Section 151 Officer) on a fixed term basis until 30th November 2024.**
- 1.3 **Subject thereto, Mr Peter Carpenter to be made available under the shared services arrangements with Redditch Borough Council to perform such duties as are required in his capacity as Interim**

Deputy Chief Executive and Interim Executive Director Resources (Section 151 Officer) for Redditch Borough Council.

- 1.4 Mrs Claire Felton, Head of Legal, Democratic and Property Services, to be appointed as the Returning Officer and Electoral Registration Officer for Bromsgrove District Council.**

2. BACKGROUND

- 2.1 This report details proposals in respect of the fixed term appointment of Mrs Susan Hanley to enable her to continue in post as the Council's Interim Head of Paid Service. In addition, the appointment of Mr Peter Carpenter to the post of Interim Section 151 Officer and Deputy Chief Executive together with the appointment of Mrs Claire Felton as Returning Officer and Electoral Registration Officer for Bromsgrove District Council.

3. OPERATIONAL ISSUES

- 3.1 Following the announcement that the former Chief Executive, Mr Kevin Dicks would be retiring in September 2023, a report was considered by Bromsgrove District Council as the employing authority under the Shared Services Arrangements. As recommended, Members agreed at their meeting on 19th July 2023 that on the retirement of Mr Dicks, Mrs Susan Hanley be appointed as the Council's Head of Paid Service, Returning Officer and Electoral Registration Officer. This was to be on an interim basis until such time as a new Chief Executive and Head of Paid Service could be recruited and appointed.
- 3.2 Whilst a recruitment exercise was undertaken for both the posts of Chief Executive and Section 151 officer, the Council was unable to recruit on this occasion. The present position therefore is that following Mr Dicks's official retirement in September 2023, Mrs Hanley is acting as Interim Chief Executive, Returning Officer and Electoral Registration Officer for both Bromsgrove District Council and Redditch Borough.
- 3.3 In terms of moving forward, the following issues now need to be addressed: -
- a. Arranging for a further recruitment process for the two senior officer posts to take place; Members will appreciate that appointing to senior roles requires a comprehensive recruitment and selection process which inevitably will take time to set up and implement.

- b. Taking steps to ensure the stability and continuity of the existing senior management team until such time as permanent recruitment can be implemented. Given the length of time that implementing step a. may take, officers are mindful of the need for any interim arrangements to come with assurances and certainty as to timescales.
- c. Re-allocation of the role of Returning Officer and Electoral Registration Officer for Bromsgrove District Council being the roles which were previously performed by the former Chief Executive Mr Dicks.

Head of Paid Service/Chief Executive post

- 3.4 The council is required by the provisions of the Local Government and Housing Act 1989 to appoint an officer as the councils Head of Paid Service. Members will be aware that under the current shared services arrangements Mrs Hanley is employed by Redditch Borough Council and “made available” to carry out her role across both authorities under the shared services arrangements. Details of the shared services arrangements, which have been in operation between the two councils since March 2011 are included in the background papers.
- 3.5 Mrs Hanley has expressed a wish to retire on the appointment of the permanent Chief Executive, and therefore not return to her substantive role as Deputy Chief Executive. As such, Mrs Hanley has expressed her intention to resign from her substantive post as Deputy Chief Executive. This will enable both Councils to consider options regarding the Senior Management structure including that of the substantive role of Mrs Hanley ahead of her retirement.
- 3.6 It is proposed that on receiving Mrs Hanley’s notice Mrs Hanley would be appointed as Interim Chief Executive and Head of Paid Service on a Fixed Term contract until 30th November 2024. All other terms and conditions would remain unaffected, and as part of the arrangements Mrs Hanley would formally agree to forfeit her right to return to a substantive permanent role of Deputy Chief Executive. That said Mrs Hanley has also indicated that should more time be needed from December 2024 onwards to finalise a new appointee to the post of Chief Executive, she would be willing to extend the fixed term contract to accommodate a transition period.

Section151 officer

- 3.7 Members will be aware that under the current shared services

arrangements, the post of Director of Finance has historically been held by an officer employed by Bromsgrove District Council, with that person being “made available” to Redditch Borough Council.

- 3.8 Members will recall that in June 2022, a report was considered by full council recommending the appointment of Mr Peter Carpenter as Interim Section 151 Officer. In June 2023, Council agreed to extend the arrangements for the Interim Chief Finance Officer/Section 151 Officer until 22nd December 2023. The current arrangement is set up a placement via West Midlands Employers and Mr Carpenter is paid on a daily rate.
- 3.9 Whilst the recruitment process of the permanent Section 151 is now delayed, the Council remains subject to the legal requirement to have a Section 151 officer in place when the current arrangement with Mr Carpenter (via West Midlands Employers) ceases on the 22nd December 2023.
- 310 As Members will be aware, following the Interim Annual Audit Report 2020/21, both Councils were issued with Section 24 notices in the autumn of 2022. In response to this a detailed Finance Recovery Plan has been put in place for which Mr Peter Carpenter has taken on a key leading role. He is currently overseeing progress on a number of business critical workstreams and the Council has benefitted from having an experienced and knowledgeable Section 151 officer in post at this time.
- 3.11 Members are advised that key aspects that Mr Carpenter is currently working on include: -
- Supervising delivery of closure of the accounts;
 - Working closely with the Council's internal finance team;
 - Liaising with the Council's external auditors; and
 - Delivery of the projects linked to the Levelling Up Fund work in Bromsgrove and the Town Deal in Redditch.
- 3.12 To ensure a period of stability at the senior level, it is proposed that Mr Carpenter be appointed as Interim Deputy Chief Executive to the post made vacant by the resignation of Mrs Hanley, and to the post of Interim Executive Director of Resources. This second role would encompass his current role of Section 151 Officer and line managing the Head of Finance and Customer Service and Head of Legal, Democratic and Property Services. In addition, the duties would include managing the departments currently managed by the Head of Transformation, Organisational Development and Digital Services, who is currently on a long term absence.

- 3.13 This new expanded role would be secured by way of a direct contract of employment between Mr Carpenter the Council on a Fixed Term until 30th November 2024. As previously Mr Carpenter would be “made available” to Redditch Borough Council under the shared service arrangements. Mr Carpenter would also continue to act as Section 151 Officer for Redditch Borough Council.
- 3.14 Members are advised that Ms Michelle Howell, Head of Finance and Customer Services and Deputy Section 151 Officer, has tendered her resignation for personal reasons, and will be leaving the Council and local government in December 2023. Arrangements have been put in place via an agency for an interim Head of Finance and customer Services and Deputy Section 151 officer to be engaged. This will provide cover and continuity for the team until such time as a permanent replacement can be recruited.
- 3.15 In conclusion, officers believe that it is imperative that the Council seek to enable continuity in the finance team. It is also important that any incoming permanent Head of Financial Services and Customer Services (alongside the newly strengthened Finance Team) has sufficient coaching, support and leadership over the coming period.
- 3.16 For the reasons detailed above the Council is being asked to consider appointing Mr Carpenter as Interim Deputy Chief Executive and Interim Director of Resources (including Section 151 Officer) on a fixed term contract. Officers believe that this appointment would strongly mitigate against the risks of loss of knowledge and experience of delivering the statutory section 151 functions were Mr Carpenters current employment arrangements via West Midlands Employers to come to an end. A further risk factor to consider in this regard is that the Deputy Section 151 officer post is also subject to change at the current time with the departure of Ms Howell as set out in paragraph 3.13. The appointment of Peter Carpenter would provide the continuity that is required for specific projects. It would also ensure the Council’s compliance with its obligations around the Section 151 function during a period of change and allow for continued support to be given to members of the finance team in the short term to medium term.

Returning Officer and Electoral Registration Officer for Bromsgrove

- 3.17 Members will recall that under the previous management structure the statutory posts in relation to the administration of the elections were held by Mr Dicks for Bromsgrove and by Mrs Hanley for Redditch. Given that

a new Chief Executive has not been recruited, consideration needs to be given to re-appointing to the Bromsgrove statutory election posts.

- 3.18 As in practice the elections have to be covered simultaneously at both Councils, these duties have always been shared by two officers. The proposal therefore is that Mrs Hanley will continue to cover these roles for Redditch, and that Mrs Claire Felton, Head of Legal, Democratic and Property Services, be appointed as the Returning Officer and Electoral Registration Officer for Bromsgrove. Mrs Felton already acts as Deputy Returning Officer for Bromsgrove.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications for the appointment/continuation of Mrs Hanley as Chief Executive. The salary, excluding on costs, for the Chief Executive is £142,663 - £148,485, and the changes outlined in this report will not create any additional expenditure for this employee. These costs are covered 50:50 between Redditch Borough Council and Bromsgrove District Council under shared service arrangements.
- 4.2 The salary for the Deputy Chief Executive role is currently £114,444 - £118,842, excluding on costs. The market for interim roles does attract a higher market rate and therefore a supplement of £21,158 is proposed to retain and appoint Mr Carpenter, with an overall salary of £140,000. By re-defining this post to cover expanded duties and switching to a fixed term salaried approach, officers believe that better value can be achieved for the organisation. Again, these costs would be covered 50:50 between Redditch Borough and Bromsgrove District Councils.
- 4.3 Appointing on a £140,000 salary for full year would result in employers costs of £158,060. It should be noted that the employee has indicated that they would not wish to be part of the pension scheme which would incur an additional cost of £27,440.
- 4.4 The current Deputy Chief Executive 2023/24 budget provision totals £154,260 which includes budget provision for employers pension costs. When comparing the estimated annual costs of £158,060 to the budget provision this would result in a minor overspend which could be accommodated within existing budgets.
- 4.6 There are no financial implications in relation to the appointment of Mrs Felton to the statutory posts of Returning Officer and Electoral Registration Officer.

5. LEGAL IMPLICATIONS

- 5.1 It is a legal requirement that the appointment of the Head of Paid Service and “statutory officers” is made by full Council. This is set out in the relevant regulations (The Local Authorities (Standing Orders) Regulations 2001 (as amended) Schedule I Part II) which are reproduced in the Officer Employment Rules at Part 17 of the Constitution.
- 5.2 The Council is required to nominate an officer under section 151 of the Local Government Act 1972 to be responsible for the proper administration of its financial affairs. The relevant wording states that: - “Without prejudice to section 111 above, every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.”
- 5.3 Section 6 of the Local Government and Housing Act 1989, further sets out that “ (1) On and after the commencement day the Common Council shall – (a) make arrangements for the proper administration of such of its financial affairs as relate to it in its capacity as a local authority, police authority, or port health authority, and (b) secure that one of its officers has responsibility for the administration of those affairs”.
- 5.4 Section 113 of the Local Government Finance Act 1988 requires that the officer appointed as the Chief Finance Officer (CFO) must be a member of a specified accountancy body.
- 5.5 The legislation regarding the appointment of the Council’s Returning Officer is set out in Section 35 of the Representation of the People Act 1983, and the requirement for an Electoral Registration Officer is set out in Section 8 of the same Act.
- 5.6 External employment legal advice has been taken in preparing the report and recommendations. The approach and recommendations have been shared with the Council’s outgoing External Auditor in view of the Section 24 Notice and also with the incoming External Auditor. The Auditors have confirmed their view that the proposals are entirely reasonable in the circumstances and demonstrate resilience in the context of the challenges that were identified in the Interim Annual Audit report 2020/2021.

6. OTHER - IMPLICATIONS

Relevant Strategic Purpose

- 6.1 Effective financial management underpins all the Council's operations and achievement of strategic purposes.
- 6.2 The appointment of Mrs Susan Hanley as Interim Head of Paid Service, and the appointment of Mr Peter Carpenter as Interim Deputy Chief Executive and Interim Director of Resources (Section 151 Officer), on fixed term contracts will ensure that there is consistency and continuity for the year ahead.
- 6.3 This continuity will assist the Council in terms of being an effective and sustainable authority moving forward.

Climate Change Implications

- 6.4 There are no specific climate change implications.

Equalities and Diversity Implications

- 6.5 There are no known equalities implications arising from the options outlined in this report.

7. RISK MANAGEMENT

- 7.1 As outlined in section 3, the following risks have been identified by this report, particularly in relation to the post of Director of Finance and Section 151 Officer:-
- Decline in Council performance and focus in terms of high level leadership given that a permanent replacement Head of Paid Service was not recruited.
 - Loss of lead officer for implementation of Finance Recovery Plan at a time when the Council is subject to the Section 24 Notice.
 - Loss of lead finance officer for the specific projects listed at paragraph 3.10.
 - Potential inability to comply with legal requirement for Council to have a section 151 Officer in place given that a permanent replacement Section 151 officer was not recruited and the current postholder as Deputy Section 151 Officer is leaving the organisation at the end of 2023.

- Loss to the organisation of knowledge and experience held by the current Interim Section 151 Officer.
- Loss to the organisation of continuity in the Finance Team particularly around support for the Head of Finance and Customer Services post and more junior team members.

7.2 Ways in which the steps recommended in the report will mitigate the risks outlined above: -

- The appointment of an Interim Head of Paid Service on a fixed term contract until 30th November 2024 will secure this position for the next 12 months and allow for continuity and officer leadership to be provided by Mrs Hanley remaining in this role.
- There is scope for this appointment to be extended to cover a transition to a new Chief Executive if required.
- The continuity of employment of the current Director of Finance and Section 151 Officer will be secured by employing Mr Peter Carpenter on a fixed term contract until 30th November 2024.
- These arrangements will give the organisation 12 months to carry out further recruitment.
- The vacant post of Deputy Chief Executive will be filled on an interim basis giving additional support to the Interim Head of Paid Service.
- The organisation will be able to retain the professional expertise of Mr Carpenter and there will be continuity in respect of the projects he is leading on and the support provided to the Finance Team.
- The Council will be able to fulfil its legal obligations by employing a knowledgeable and experienced Section 151 Officer.
- There will be continuity in respect of the implementation of the Council's Finance Recovery Plan and liaison between the Council and its external auditors.

8. APPENDICES and BACKGROUND PAPERS

Appendix 1 – Structure Chart

Overarching Framework Agreement between Bromsgrove District Council and Redditch Borough Council - 21st March 2011

9. REPORT SIGN OFF

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BROMSGROVE DISTRICT COUNCIL

Council
2023

6th December

Department	Name and Job Title	Date
Portfolio Holder	Councillor Charlie Hotham	
Lead Director / Head of Service		
Financial Services		
Legal Services	Claire Felton, Head of Legal, Democratic and Property Services	