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| <b>Report to:</b>               | <b>COUNCIL</b>                                       |
| <b>Relevant Officer:</b>        | Mark Towers, Director of Governance and Partnerships |
| <b>Relevant Cabinet Member:</b> | Councillor Simon Blackburn, Leader of the Council    |
| <b>Date of Meeting:</b>         | 25 January 2017                                      |

## CONSTITUTIONAL AND PROPER OFFICER CHANGES

### 1.0 Purpose of the report:

- 1.1 To consider changes to the Council's constitution and interim arrangements for the statutory director of children's services position.

### 2.0 Recommendation(s):

- 2.1 To confirm that the Chief Executive be authorised make an appointment for an interim statutory Director of Children's Services in accordance with Section 18 of the Children's Act 2004 and also then re-assign that responsibility to the successful candidate for the permanent position should they commence employment with the Council before the next ordinary Council meeting.
- 2.2 To confirm that the duties in the Constitution currently assigned to the Chief Corporate Solicitor be reassigned to the Head of Legal, with the exception of those listed in paragraph 5.6 and to reinstate that the Deputy Head of Legal be the formal officer for the purposes of those duties, to act on behalf of or in the absence of the Head of Legal.
- 2.3 To agree that the duties listed in paragraph 5.6 be assigned to the Director of Governance and Partnerships.
- 2.4 To confirm the Proper Officer designations and appointments to certain positions in the health sector relating to Lancashire and Cumbria as set out in paragraphs 5.8 and 5.9.

### 3.0 Reasons for recommendation(s):

- 3.1 The Council has to consider changes to the constitution in relation to the designated officer for certain legal matters and also to consider interim arrangements for the statutory Director of Children's Services. The Council has also been asked to agree proper officer arrangements for certain public health related positions.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

To not make any changes or make different appointments.

#### **4.0 Council Priority:**

4.1 The proposals help the Council achieve both its priorities. 'The economy: Maximising growth and opportunity across Blackpool' and 'creating stronger communities and increasing resilience'.

#### **5.0 Background Information**

5.1 As members will be aware Mrs Delyth Curtis, the Council's statutory Director of Children's Services has obtained a Deputy Chief Executive position at Cheshire West and Chester Council and leaves the Council at the end of the month. The selection process has taken place over the past two days to consider a replacement. However, should an offer of appointment be made there will be a period of notice to serve. The statutory guidance for the roles and responsibilities of the Director of Children's Services, published by the Department of Education indicates that the Chief Executive can make an interim designation in such circumstances, where the Council is actively taking steps to fill a vacant post.

5.2 The Council is therefore asked to confirm that the Chief Executive be authorised to appoint an interim statutory Director and should the successful candidate for the permanent position commence work prior to the next ordinary Council meeting then he also be authorised to designate that individual as an interim statutory Director of Children's Services in accordance with Section 18 of the Children's Act 2004. Should a successful appointment to the vacant position be made then a report will be brought to the next ordinary Council meeting to confirm a permanent assignment of the statutory role.

5.3 The Council's Chief Solicitor took voluntary redundancy and left the Council on 31 December 2016. As part of the ongoing close working between the Council and the Blackpool Teaching Hospitals NHS Foundation Trust, their Head of Legal has been seconded to the Council on a 50:50 basis between both organisations and a post of Legal Practice Manager has also been created to work across both organisations also on a 50:50 basis. This increases resilience and knowledge across both services.

5.4 There are number of references to the role of Chief Corporate Solicitor in the Constitution. Under article 16, the Monitoring Officer may amend the Constitution to reflect changes in legislation or decisions made from time to time by or on behalf of the authority. However, it is opportune to consider a tailored approach with this being a shared post. Up until the last review of the Constitution, there used to be a Deputy for responsibilities assigned to the Chief Corporate Solicitor designated in the constitution. It is recommended to reinstate this responsibility.

5.5 Council is therefore asked to confirm that the responsibilities in the Constitution assigned to the Chief Corporate Solicitor be assigned to the new Head of Legal (with the exception of those listed at 5.6 below) and to reinstate that the Deputy Head of Legal be the formal officer for the purposes of those duties, to act on behalf of or in the Head of Legal's absence.

5.6 The list of duties below it is considered appropriate to reassign to the Director of Governance and Partnerships from the Chief Corporate Solicitor.

S.229(5) The Officer who shall certify photographic copy of a document in the custody of the Council, or of a document which has been destroyed while in the custody of the Council, or of any part of any such document.

S.234 The Officer who may authenticate documents on behalf of the Council.

S.238 The Officer who shall certify a printed copy of a byelaw of the Council.

Schedule 14, Part II, para. 25(7) The Officer who shall certify a resolution of the Council under this paragraph (this is already a joint responsibility with the Director of Governance and Partnerships Services. Under the proposals this will become the sole responsibility of the Director of Governance and Partnerships).

5.7 Recent personnel changes in the Cumbria and Lancashire Public Health England Centre health protection team have made it necessary to update arrangements for proper officer functions for Local Authorities in Cumbria and Lancashire.

5.8 The consultant level staff in Public Health England North West listed below at paragraph 5.9 should be appointed as Proper Officers in relation to health protection powers set out in the table below:

| <b>Legislation</b>                                | <b>Section</b> | <b>Power</b>   |
|---|----------------|--|
| Public Health Act 1936                            | 84             | The cleansing or destruction of filthy or verminous articles   |
|   | 85             | To report to the local authority that a person is verminous and to authorise cleansing   |
| Public Health Act 1961                            | 37             | To disinfest, destroy or remove verminous articles for sale from any premises  |
| Public Health (Control of Disease) Act 1984       | 48             | Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately. |
|   | 59             | Authorising documents under this act on behalf of the authority  |
|   | 61-62          | Power to enter premises  |
| Health Protection (Notification) Regulations 2010 | 2, 3 and 6     | Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.       |

5.9 Proper Officer nominations:

- John Astbury (reappointment)
- Nicola Schinaia (reappointment)
- Grainne Nixon (reappointment)
- Mark McGivern (new appointment)

5.10 Does the information submitted include any exempt information?

No

**List of Appendices:**

None.

**6.0 Legal considerations:**

6.1 The Children's Act 2004, states that the Council must have a Statutory Director of Children's Services designated. The Council's constitution identifies certain Proper Officer positions relating to legal and public health roles.

**7.0 Human Resources considerations:**

7.1 None.

**8.0 Equalities considerations:**

8.1 Equality considerations would be considered as part of the appointment and designation process.

**9.0 Financial considerations:**

9.1 There are no other financial considerations relating to the proposals in this report.

**10.0 Risk management considerations:**

10.1 An interim appointment of Statutory Director of Children's Services means that there is an officer with the relevant knowledge, experience and skills to be accountable for the Council's duties in relation to the Children's Act 2004. Appointing a deputy to the Head of Legal for Proper Officer purposes means that there is adequate cover should decisions need to be taken in the Head of Legal's absence. Failure to update the Proper Officers records for public health purposes would put the Council at risk of not fulfilling its statutory duties.

**11.0 Ethical considerations:**

11.1 None.

**12.0 Internal/ External Consultation undertaken:**

12.1 Notification has been received from Public Health England of the changes to proper officer designations for the public health purposes.

**13.0 Background papers:**

13.1 Letter from Public Health England to Chief Executive dated 29 November 2016.