

Report to:	Council
Relevant Officer:	Mark Towers, Director of Governance and Regulatory Services Steve Thompson, Director of Resources
Relevant Cabinet Member:	Councillor Simon Blackburn, Leader of the Council
Date of Meeting :	16 September 2015

CONSTITUTIONAL, PROPER OFFICER AND STATUTORY OFFICER CHANGES

1.0 Purpose of the report:

- 1.1 To seek the necessary approvals to update the Council's constitution due to recent changes in statutory and proper officer positions. It also seeks to clarify and update the key decision definition and the Council's Financial Procedure Rules.

2.0 Recommendation(s):

- 2.1 To consider the recommendations of the Executive (due to meet on 14th September and which will be reported to the meeting) in relation to the following:
1. To extend until 30^h November the appointment of Delyth Curtis as statutory Director of Children's Services (as defined in Section 18 of the Children Act 2004) and Karen Smith as statutory Director of Adult Services (as defined in Section 6(1) of the Local Authorities Social Services Act 1970), for the reasons set out in paragraph 5.2.
 2. To appoint Joceline Greenaway (the Head of Bereavement and Registration Services) as Proper Officer for Registration Services (as defined under the Registration Service Act 1953).
 3. To approve the revised definition for a key decision, as set out in paragraph 5.6.
 4. To amend the Council's Financial Procedure Rules as set out in paragraph 5.8.

- 2.2 To agree that Sharon Davis be appointed the statutory scrutiny officer, as defined in paragraphs 5.8 and 5.9 of this report.

3.0 Reasons for recommendation(s):

- 3.1 It is considered timely to report to Council on these proposals as there have been recent changes in personnel relating to proper officer positions and the temporary

statutory officer arrangements for Delyth Curtis and Karen Smith are due to expire at the end of September, so a Council decision is required before then. The proposed changes to a key decision definition and the Financial Procedure Rules will add clarity and certainty going forward.

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 appoint different individuals to the proper officer and statutory officer roles, or to appoint them on a different basis and to agree a different key decision definition/ Financial Procedure Rules.

4.0 Council Priority:

4.1 The relevant Council Priority is "Deliver quality services through a professional, well-rewarded and motivated workforce".

5.0 Background Information

5.1 The Executive is due to meet on 14th September and will be informed that in February 2015, the Chief Officers Employment Committee agreed to authorise the Chief Executive to commission the Hay Group to assist him in an evaluation of the authority's senior management structural arrangements. This was partly due to the temporary arrangements in place for Delyth Curtis undertaking the role of statutory Director of Children's Services and Karen Smith undertaking the role of statutory Director of Adult Services. It also involved the secondment of a chief officer to Blackpool Coastal Housing Limited, which is due to expire in May 2016. The temporary arrangements for the statutory roles had been agreed by Council on 17 September 2014 to be in place until 30 September 2015. It was envisaged that the Chief Officers Employment Committee would have met by this date to allow it to consider the aforementioned review. However, this has not happened and the review is still subject to consultation. A meeting of the Chief Officers Employment Committee will be held in the near future and before the next Council meeting in November.

5.2 The Chief Executive has consulted with the Leader of the Council and the Leader of the Conservative Group and accordingly wishes to ask Council to extend these temporary arrangements until 30 November 2015, to enable them to be considered at the November Council meeting, following the Chief Officers Employment

Committee's review of the structure. The Executive at its meeting on 14 September will be asked to support this recommendation.

5.3 It is also considered appropriate to change the designation for the Proper Officer for Registration Services. This is currently held by Mark Towers, but the detail of the role involves regular liaison with the Registrar General and it is recommended that Joceline Greenaway who is the Head of Registration and Bereavement Services undertakes this role, as it is more relevant to her day to day duties and she is of sufficient level to hold this role. This role is held by holders of similar positions in other unitary/ County Councils. The proposal is supported by the Registrar General's office. The Executive at its meeting on 14 September will be asked to support this recommendation.

5.4 At its meeting on the 22 May 2013, the Executive agreed a set of decision making criteria which forms part of the constitution. Given that two years have now elapsed since these were agreed, it is considered timely to review these criteria to ensure that they remain fit for purpose. Part of the review has involved an internal audit review of the application of these criteria within a Council directorate. Due to feedback received from Democratic staff and feedback at the beginning of this review, it is suggested that one proposed change is the definition of a key decision.

The point requiring clarification is when approval has already been sought for a decision because it is already clearly referenced in the budget. A second decision for approval is therefore not required. This has always been the advice given to officers and members but it is considered for clarification purposes, it needs to be clearly referenced in the definition. There are no proposals to change the other parts of the definition.

5.5 The updated definition would therefore read as follows:

An Executive decision will be a key decision if it comes within any of the following categories:

a) It involves expenditure or savings (including receipt of or loss of income) of £250,000 or over in relation to the budget for the service or function to which it relates, but excludes any decision:

- taken as a consequence of the Council's Treasury Management Strategy for the current financial year;
- taken as a direct consequence of an earlier key decision;
- identified within the Council's agreed Budget for the current financial year where there is a clear intention of the decision to be taken.

- b) It is likely to have a significant positive or negative impact on the people living or working in an area comprising two or more wards.
- c) It makes recommendations on the Council's Policy and Budget Frameworks.
- d) If the decision is to approve a 'plan or strategy', reserved for Executive approval only, as set out in the constitution.

The Executive at its meeting on 14 September will be asked to support this recommendation.

- 5.6 As part of this review of the Constitution it is also considered prudent to change the Financial Procedure Rules to reflect the current financial climate of local government and financial status of the Council. Paragraph 2.3 of the Financial Procedure Rules currently states:

- 2.3 Expenditure may be incurred in excess of individual revenue budget heads provided that the total of such excess spending does not:
- (i) exceed 1% of the authority's total net revenue expenditure, or
 - (ii) have the effect of reducing the authority's Reserves and Working Balances below 50% of their normal projected level.

- 5.7 It is proposed that this paragraph now read:

- 2.3 Expenditure may be incurred in excess of individual revenue budget heads provided that the total of such excess spending does not:
- (iii) exceed 1% of the authority's total gross revenue expenditure, or
 - (iv) have the effect of reducing the authority's Working Balances below 50% of their normal target level.

The Executive at its meeting on 14 September will be asked to support this recommendation.

- 5.8 The Council has a statutory duty to designate one of its Officers as the Council's Statutory Scrutiny Officer under section 31 of the Local Democracy, Economic Development and Construction Act 2009. Steve Sienkiewicz, the Scrutiny Manager previously held this role and he retired earlier in the summer and was replaced by Sharon Davis, an officer from his team. Paragraph 82 of Parliament's Explanatory Notes to this Act explains the intention of Section 31 in relation to the statutory position.

"Typically, a scrutiny officer will promote the scrutiny function generally within the authority and local government partners more widely and provide advice and support to members of the authority's committee(s) in undertaking their work. This may

include the provision, or management, of committee secretariat services, research, and report preparation for example."

- 5.9 The Statutory Scrutiny Officer role is in effect a direct management role of the scrutiny function and in line with the explanatory note referred to above, it is considered appropriate that the Scrutiny Manager continues to undertake this role. (This role also cannot be undertaken by the Head of Paid Service, the Monitoring Officer or the Statutory Finance Officer). The success of scrutiny relies on not just the statutory officer but the buy in and support from lead scrutiny members (chairmen and vice chairmen, members of the relevant committees, chief officers and the Executive.
- 5.10 The appointment of a Statutory Scrutiny Officer is a Council responsibility and the proposal will secure compliance with the Council's duty under the Local Democracy, Economic Development and Construction Act 2009.

Does the information submitted include any exempt information?

No

List of Appendices:

None.

6.0 Legal considerations:

- 6.1 A Council has to have in place statutory and proper officers for various positions. This report seeks to extend and also formalise certain appointments for the reasons explained in the report. A Council also has to have an agreed definition for a key decision and Financial Procedure Rules. This report again seeks to update the current definitions to make them more relevant.

7.0 Human Resources considerations:

- 7.1 None

8.0 Equalities considerations:

- 8.1 Equality considerations would be considered as part of the decision making process when each Executive and Cabinet Member decision is taken.

9.0 Financial considerations:

- 9.1 There are no financial considerations relating to the proposals in this report. The reasons for the changes to the Financial Procedure Rules are listed in the report.

10.0 Risk management considerations:

10.1 Additional clarity over corporate governance arrangements will reduce the risk of decisions being taken at the wrong level or not properly recorded. Decisions on statutory and proper officer positions at September's Council meeting will also make sure the Council has appropriate accountable people in relevant positions to meet its obligations.

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 Consultation has taken place with the individuals for the proposed statutory positions and with the Leader of the Council and the Leader of the Conservative Group specifically regarding the extension of the arrangements for the statutory positions for Director of Children's Services and statutory Director of Adult Services.

13.0 Background papers:

13.1 None