

## ITEM 9(c) – FOR INFORMATION

<b>EMPLOYMENT COMMITTEE</b>	AGENDA ITEM No.
<b>20 NOVEMBER 2014</b>	PUBLIC REPORT

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### SENIOR MANAGEMENT PAY REVIEW

RECOMMENDATIONS
Employment Committee is asked: 1. revisit the decisions it made on senior officer's salaries at its meeting on 3 February 2014; 2. make any recommendations on changes, as it sees fit, including reducing senior officer pay.

#### 1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Committee following a referral from Council meeting on 16 April 2014.

#### 2. PURPOSE AND REASON FOR REPORT

- 2.1 At its meeting on 16 April 2014, Council received its annual report on the Council's Pay Policy. Following a debate Council adopted the Pay Policy Statement for 2014/15, noted the decisions made by this Committee in relation to the Senior Management Pay Review and asked this Committee to revisit senior officer's salaries in this municipal year. Council further requested this Committee, once it had revisited these salaries, to make any recommendations it saw fit, including reducing senior officer's pay.
- 2.2 This report sets out the detailed process which Employment Committee adopted to set senior officer pay which will now enable the Committee to revisit its decisions. This report also provides legal and HR advice should the Committee wish to consider any changes to its original decisions.

#### 3. SENIOR MANAGEMENT RESTRUCTURE: APRIL 2013

- 3.1 The Chief Executive commenced a senior management structure in April 2013 through the publication of a consultation document which went to all Directors, Heads of Service and Assistant Directors as well as other managers who were affected by the proposals. Before the consultation document was published, the Chief Executive saw all managers affected by the proposals personally. The Cabinet and Group Leaders were informed of the consultation prior to the publication of the proposals and they were also briefed on the outcome of the consultation and how the Chief Executive intended to change her proposals as a result of the consultation. Trade Unions were also consulted on the proposals, even though none of the Trade Unions are recognised for consultation purposes with senior managers.
- 3.2 After the consultation period closed, further time was taken to finalise the proposals as a result of a health check which was conducted on the Council's asset management arrangement. The outcome of the health check required further structural changes to be made to the senior management restructure. Rather than do a second senior management restructure, the Chief Executive decided to incorporate the findings of the health check into

the original restructure proposal. This meant that the final document prepared by the Chief Executive was not ready until September 2013.

- 3.3 As a result of the restructure, a number of decisions were required by this Committee to implement the restructure. Therefore, on the 16 September 2013, the Chief Executive arranged for an informal briefing of Employment Committee to set out the steps the Committee needed to take to implement the senior management restructure. The Chief Executive also sought informal views from the Employment Committee about recruitment to the new roles and the Committee expressed a preference for the roles to be advertised internally initially to see if the posts could be recruited from the Council's own workforce, thereby supporting the Council's succession planning policies as well as avoiding expensive recruitment costs.

#### **4. EMPLOYMENT COMMITTEE - 27 SEPTEMBER 2013**

- 4.1 Employment Committee considered a report which set out the changes the Chief Executive proposed to make to the senior management structure and which asked this Committee to recommend any appropriate actions which they considered necessary to the proposals prior to their implementation by the Chief Executive under her delegated powers.
- 4.2 Employment Committee considered the changes proposed by the Chief Executive but did not recommend any specific actions in response to the proposals prior to the implementation by the Chief Executive under her delegated powers except for a change in the titles of two of the posts. The Committee thanked the Chief Executive and Head of Human Resources for the extensive amount of work which had been undertaken on the proposals. The changes proposed by this restructure were also reported to Council, as required by the Constitution, at its meeting of 9<sup>th</sup> October 2013.

#### **5. EMPLOYMENT COMMITTEE - 11 OCTOBER 2013**

- 5.1 Following the Employment Committee of 27 September 2013 the Chief Executive exercised her delegation to confirm the new senior management structures and commence drafting job descriptions for the new roles. The job descriptions and person specifications were presented to the Employment Committee for the new role of Director of Communities, Director of Growth and Regeneration and Director of Governance. Job descriptions for four existing posts were also presented for approval due to changes in those roles since they were last approved by Employment Committee. These roles were the Chief Executive, Executive Director: Resources, Executive Director: Children Services and Executive Director: Adult Social Care, Health and Wellbeing. All the job descriptions were approved and it was noted that each of the roles would be evaluated under the council's job evaluation method provided by the HAY Group. The committee were advised that once the jobs were evaluated, senior managers would be informed and then given the right to appeal against any evaluations score through a proper appeals process.
- 5.2 This committee also received a report, discussed in an exempt session, to agree to commence consultation with senior managers regarding the implementation of a revised senior management pay scale. The previous senior management pay scale had been in place for a number of years, during which neither the pay scale nor the pay bands had been reviewed. In line with the council's pay policy, national pay increases agreed by the joint negotiating committee (JNC, for Chief Officers) were applied over this period with a last increase agreed by the JNC taking effect in 2008.
- 5.3 Over the intervening period the local government landscape had changed radically, partly due to the austerity measures of government and partly through adopting new ways of working, with many services now being provided externally. As a result the local government job market had changed significantly since the pay scales were originally designed.
- 5.4 In addition, evidence from recruitment campaigns over the last 24 months has suggested that the council's pay scale did not have sufficient flexibility to attract and retain high calibre

candidates for most senior posts within the council. As a result, the council had to, in some cases step outside the structure of the pay scale banding in order to secure the high profile and critical post within the authority, predominantly within children services.

- 5.5 Given the need to control employment costs in line with the budgetary requirements and taking into account the factors above, it was felt that it was essential to review the senior management pay scale to enable the council to be confident that salaries of senior managers properly reflect the current market conditions in which recruitment takes place and in which local government now operates.
- 5.6 This committee accepted the basis on which a pay review should be conducted and agreed to commence consultation with senior managers. The consultation commenced on the 18 October 2013 where all senior managers affected by the senior manager pay scale were sent the consultation document.
- 5.7 The consultation document was prepared with professional input from the HAY Group who were engaged to assist the council in reviewing and revising the pay scales for senior managers with the aim of creating a pay scale that reflects the needs of the council and was competitive when benchmarked against comparable organisations. The HAY Group involvement was to ensure independence and impartiality to the review process as recognised experts in this field. The HAY Group were also able to bring benchmarking information of the current position within the local government, not for profit sectors as well as the private sector (excluding financial services). Having reviewed this information, it was decided, in the consultation document to reflect pay scales which were a blend between current rates in local government and rates in the not for profit sector. The latter was chosen because local government staff often look to the not for profit sector for employment. Employment Committee were also able to see benchmarking data from the private sector which indicated a significant pay differential that would result if the council included the private sector pay data which would considerably inflate salaries. Private sector pay scales were not included in the consultation document.

## **6. CONSULTATION PROCESS FOR SENIOR MANAGER PAY SCALES**

- 6.1 As stated above consultation on the pay scales started on the 18 October 2013 and finished on the 18 November 2013 which all senior managers affected being sent the consultation paper. During this period individuals had the opportunity to request a one to one meeting, or to submit feedback in writing or verbally. Following the closure of the consultation period all senior managers were written to, provided with a response to the concerns they had raised and setting out the proposed recommendations for Employment Committee. Although no trade unions are officially recognised for consultation purposes for senior managers, the proposals regarding the pay scale were shared with the Joint Consultative Forum (JCF) at their meeting on 17 October 2013.

## **7. EMPLOYMENT COMMITTEE - 23 OCTOBER 2013**

- 7.1 Following the approval of the job descriptions and person specifications, the new roles in the senior management restructure were advertised internally and interviews took place on 23 October 2013 for the roles of Director of Communities, Director of Governance, the Executive Director of Adult Social Care, Health and Wellbeing and the Director of Growth and Regeneration. All the posts were recruited from internal candidates and the outcome was as follows:-

- Simon Machen was promoted to the post of Director of Growth and Regeneration from the role of Head of Planning, Transport and Engineering
- Kim Sawyer was promoted to the role of Director of Governance from the role of Head of Legal Services
- Wendi Ogle-Welbourn was promoted to the role of Director of Communities from the role of Assistant Director for Strategy, Commissioning and Prevention
- Jana Burton was promoted to Director of Adult Social Care, Health and Wellbeing from the post of Director of Adult Social Care.

7.2 Whilst the appointments were made to these roles, salaries were not fixed, as the Employment Committee had only the week before, commenced the consultation on the new pay scales. Employment Committee agreed to meet, following the consultation period to approve the new senior managers pay scale and to award salaries to all those within the remit of the restructure as a result of the job evaluation process.

## **8. EMPLOYMENT COMMITTEE - 3 FEBRUARY 2014**

8.1 This committee meeting was held to finalise the steps required to fully implement the senior management restructure. The first part of the meeting approved a range of recommendations to implement a senior manager pay scale and the second part of the meeting, in exempt session, determined the salaries to be paid to the Chief Executive and other Directors within the senior management restructure.

8.2 The committee received the outcome of the consultation on the senior manager pay scales and decided the following with respect to the new senior manager pay scale:-

- That the pay scale should consist of 7 pay bands, each pay band being based on the market median (the 50<sup>th</sup> percentile using local government and not for profit bench mark data), with a band width of plus/minus 10%.
- Salaries could be set at any point within the pay band so that there are no set points within the pay bands.
- A pay band should be designated numerically from 1 to 7, with pay band 1 being the highest and pay band 7 being the lowest.
- Each pay band should correspond to a range of points under the HAY evaluation scheme and the evaluated point for each post determines the applicable pay band.

8.3 Once the committee had determined the senior manager pay scales they also went on to make other decisions to support the implementation of these pay bands and as a result the following was agreed:-

- To develop a progression related pay mechanism for senior managers
- To award pay protection for senior managers on the same basis as employees on the NJC scheme.
- To approve a job evaluation appeal process for senior managers.
- To approve guidance for assigning senior managers salaries on the approved pay scale.
- To assign new job titles for senior management posts.

8.4 Once the above matters had been decided Employment Committee was then able to go in to exempt session and determine the salaries to be awarded to the relevant post. It took each post in turn and proposed appropriate salaries, based on the pay scale and guidance for setting salaries. At the end of this process the committee were advised that the salary and the job evaluation score would be notified to the relevant post holders and they would be asked to signify their agreement to these changes to their terms and conditions. The committee were informed that once all post holders had agreed to these matters the decisions of the employment committee could be published.

## **9. ACTIONS FOLLOWING EMPLOYMENT COMMITTEE ON 3 FEBRUARY 2014**

9.1 Following the decision made by Employment Committee on 3 February 2014, each post holder was written to with the outcome of their evaluation and the proposed salary awarded by Employment Committee. No post holder appealed against their job evaluation score or challenged the award of the salary and so publication of the salaries took place at the Council meeting on 16 April 2014. The decisions were reported to the Council meeting and are set out below.

## 9.2 **Chief Executive**

The post of Chief Executive was allocated a point score of **2128** points under the Hay job evaluation scheme.

This places the post in Pay Band 1 of the new pay scale, with a point range of 1801 - 2140 points and a band width of £153,000 - £187,000. The median point on Pay Band 1 is £170,000.

Employment Committee decided to maintain the post-holder's existing salary level and awarded a salary of **£170,175** per year.

## 9.3 **Executive Director Resources**

The post of Executive Director Resources was allocated a point score of **1560** points under the Hay job evaluation scheme.

This places the post in Pay Band 2 of the newly proposed pay scale, with a point range of 1508 – 1800 points and a band width of £127,014 - £155,240. The median point on Pay Band 2 is £141,127.

Employment Committee decided to set salary at the median point and awarded a salary of **£141,127** per year.

As Executive Director Strategic Resources the post-holder, John Harrison, was previously paid £121,192 per year. The additional responsibilities resulting in an increase in salary to £141,127 per year for the post of Executive Director Resources are set out in detail underneath.

### **Back Pay Claim**

As referenced earlier in this paper (Section 2.2.5), the external evaluation of the job description for the post of Executive Director Resources resulted in a point score (1560 points), which fell outside the scope of the previous pay scale (the maximum point score on the Director 1 band on the previous pay scale was 1507 points).

Employment Committee considered that the increase in responsibilities in relation to this post had in fact accumulated over a number of years as detailed underneath:

- Business Transformation – Created in 2006.
- Programme and Project Management and Performance Management - Transferred in 2007.
- Waste Strategy and Energy from Waste Projects - Transferred in 2007.
- Registration Service - Transferred in 2007.
- Former 'Leisure Services' - Transferred in September 2009 including responsibility for Vivacity services, cemeteries and crematorium services.
- City Services - From April 2009 the post-holder had responsibility for developing and letting contract and from March 2011 the post-holder took on contract responsibility for Enterprise (now Amey).
- Energy – Transferred in 2011 which included renewable generation, efficiency and creation of Esco.

- Miscellaneous – Over the period responsibility taken on for Westcombe Engineering and business support services to all departments.

The post-holder submitted a request in February 2008 to have his role re-evaluated but despite this request, an evaluation was not undertaken at that time.

A careful analysis of the responsibilities added to the post has been undertaken and from this it has been evidenced that the additional responsibilities undertaken up to early 2011 would not have been sufficient to trigger a job evaluation point score above the ceiling for the 'Director 1' pay band within the previous pay scale.

It was however recognised by Employment Committee that back pay should be awarded from 1 April 2011, as the accumulated responsibilities from this date onwards would have resulted in a job evaluation point score above the maximum on the Director 1 band on the previous pay scale.

Custom and practice would dictate that the post-holder's grading and pay would normally have been reviewed at this point but unfortunately no mechanism existed within the pay scale to enable this increase in responsibilities to be reflected by a corresponding increase in pay band or spinal column point.

Taking this into account and to maintain equity and fairness in the pay system, Employment Committee agreed a backdated pay award of **£31,563.75** for the period from 1 April 2011 to 31 October 2013.

#### 9.4 **Executive Director Children's Services**

The post of Executive Director Children's Services was allocated a point score of **1418** points under the Hay job evaluation scheme.

This places the post within Pay Band 3 of the newly proposed pay scale, with a point range of 1261 - 1507 points and a band width of £103,811 - £126,880. The median point on Pay Band 3 is £115,345.

Employment Committee decided to maintain the post-holder's existing salary level and awarded a salary of **£125,000** per year.

#### 9.5 **Executive Director Adult Social Care and Health and Wellbeing**

The post of Executive Director Adult Social Care and Health and Wellbeing was allocated a point score of **1418** points under the Hay job evaluation scheme.

This places the post within Pay Band 3 of the newly proposed pay scale, with a point range of 1261 - 1507 points and a band width of £103,811 - £126,880. The median point on Pay Band 3 is £115,345.

Employment Committee then considered the supplementary market data presented, which confirmed that similar roles in comparable local authorities are currently paid at a rate above the applicable pay band for this post. This data was collated by the research team at Gatenby Sanderson, an independent, external, specialist search and selection company.

Employment Committee determined that it did not wish to compromise the pay system by awarding a salary, which sat outside the applicable pay band for the post. It therefore decided to set salary at the median point of the pay band at **£115,345** per year but also awarded the post holder a market supplement of **£20,000** per year.

The market supplement was awarded for an initial period of two years with effect from 1 November 2013 and is subject to annual review thereafter, in accordance with the council's Market Related Pay Policy.

### Post Holder

Jana Burton, Executive Director Adult Social Care and Health and Wellbeing

### Previous Role (Tier 1, Director of Adult Social Care)

The post-holder previously held the post of Director of Adult Social Care and was paid £110,235 per year.

### New Role (Tier 1, Executive Director Adult Social Care and Health and Wellbeing)

In her new role as Executive Director Adult Social Care and Health and Wellbeing the post-holder is paid a base salary of £115,345 per year and is responsible for:

- Adult Social Care.
- Public Health.
- The Health and Wellbeing agenda.

## 9.6 **Director for Communities**

The post of Director for Communities was allocated a point score of **1418** points under the Hay job evaluation scheme.

This places the post within Pay Band 3 of the newly proposed pay scale, with a point range of 1261 - 1507 points and a band width of £103,811 - £126,880. The median point on Pay Band 3 is £115,345.

Employment Committee decided to set the salary at the median point and awarded a salary of **£115,345** per year.

### Post Holder

Wendi Ogle-Welbourn, Director for Communities

### Previous Role (Tier 2, Assistant Director Strategic Commissioning and Prevention)

The post-holder previously held the second tier post of Assistant Director Strategic Commissioning and Prevention for Children's Services and was paid £105,186 per year.

### New Role (Tier 1, Director for Communities)

In her new role as Director for Communities the post-holder is paid £115,345 per year and is responsible for strategy, commissioning and prevention for:

- Children's Services.
- Adult Social Care services.
- Public Health services.
- Neighbourhoods services.

The post-holder is also responsible for the provision of services for:

- Children.
- Neighbourhoods.
- Public Health.

## 9.7 Director of Growth and Regeneration

The post of Director of Growth and Regeneration was allocated a point score of **1312** points under the Hay Group job evaluation scheme.

This places the post within Pay Band 3 of the newly proposed pay scale, with a point range of 1261 - 1507 points and a band width of £103,811 - £126,880. The median point on Pay Band 3 is £115,345.

Employment Committee then considered the supplementary market data presented, which confirmed that similar roles in comparable local authorities are currently paid at a higher rate than the median point in Pay Band 3. This data was collated by the research team at Gatenby Sanderson, an independent, external, specialist search and selection company.

Employment Committee decided to set salary at the median point of the pay band at **£115,345** per year but also awarded the post holder a market supplement of **£5,000** per year in recognition of external market factors.

This market supplement was awarded for an initial period of two years with effect from 1 November 2013 and is subject to annual review thereafter, in accordance with the council's Market Related Pay Policy.

### Post Holder

Simon Machen, Director of Growth and Regeneration

### Previous Role (Tier 2, Head of Planning, Transport and Engineering Services)

The post-holder previously held the second tier post of Head of Planning, Transport and Engineering Services and was paid £90,323 per year.

### New Role (Tier 1, Director of Growth and Regeneration)

In his new role as Director of Growth and Regeneration the post-holder is paid a base salary of £115,345 per year and is responsible for:

- A wide range of infrastructure, regulatory and environmental services including Planning, Transport and Engineering Services.
- Growth.
- Regeneration.
- The council's new Joint Venture arrangement.
- The commissioning and performance management of Opportunity Peterborough, the Peterborough Delivery Partnership and highway services providers.
- Resilience / Health and Safety.

## 9.8 Director of Governance

The post of Director of Governance has been allocated a point score of **1056** points under the Hay Group job evaluation scheme.

This places the post within Pay Band 4 on the newly proposed pay scale, with a point range of 1056 - 1260 points and a band width of £85,500 - £104,500. The median point on Pay Band 4 is £95,000.

Employment Committee decided to set salary at the median point and awarded a salary of **£95,000** per year.

## Post Holder

Kim Sawyer, Director of Governance

## Previous Role (Tier 2, Head of Legal Services)

The post-holder previously held the second tier post of Head of Legal Services. As such she was responsible for the delivery of legal services and was paid £74,314 per year.

## New Role (Tier 1, Director of Governance)

In her new role as Director of Governance the post-holder is paid £95,000 per year and is responsible for:

- Legal Services.
- Governance.
- Regulatory Services.
- Communications.
- Human Resources.
- Performance Management
- Elections.

9.9 As previously stated, Council debated this matter and passed the recommendation for this committee to review senior management pay. Set out below are the legal implications which need to be considered when carrying out such a review.

## **10. LEGAL IMPLICATIONS**

10.1 The Employment Committee will be aware that if it were to impose a unilateral reduction in pay i.e. an imposed percentage reduction, this would be unlawful and could give rise to claims of breach of contract, unlawful deduction from wages and constructive unfair dismissal. Any pay reduction, to be lawful, would have to be the subject of consultation and agreement with those affected by the reduction. Failure to reach agreement with those officers leaves the option only to dismiss and re-engage those officers.

10.2 The pay made to the Executive Director in recognition of his accumulated responsibilities over previous years was paid under a settlement agreement. An agreement protects the Council as it is a once and for all settlement of any claim. The settlement agreement reached with the Executive Director of Resources is a binding contract. Members will therefore know that it cannot be undone by the Council without being in breach of contract. Employment Committee will appreciate that a binding contract can only be varied by agreement.

10.3 "Market supplements" are paid by the Council to assist recruitment of roles that are paid above the independently assessed levels in other organisations. Our policy states that they are paid for two years. Whilst a market supplement can be withdrawn after two years, it is far more difficult to argue for a removal of a market supplement *before* the expiry of that time. As Employment Committee will understand, the market supplement payment is a contractual entitlement and any attempt to reduce or remove it will be a unilateral reduction in pay and open to legal challenge as both a breach of contract and an unlawful deduction of pay, unless agreement is reached through consultation and in the absence of agreement only dismissal and re-engagement is an option.

## **11. FINANCIAL IMPLICATIONS**

11.1 At the Employment Committee on the 27 September 2013 it was reported that as a result of the proposals put forward, which will reduce the number of senior management roles

and improve arrangements for commissioning and provision of services, it is anticipated that savings should be in the region of £750,000.

11.2 The Councils medium term financial strategy published in March 2013 outlined plans to deliver savings through 'Implementing a revised delivery model for a commissioning function.' By 2014/15 these were expected to total £1m per year.

11.3 The review of the Senior Manager structure was the first stage in delivering the commissioning function, and then the associated savings. These savings arise in three stages:

1. Direct savings from the original senior manager reorganisation, establishing the new structure of the Council. Savings have been made from the posts deleted, as reported to Employment Committee e.g. Executive Director of Operations
2. Further savings from reorganisation within the senior structure within each Directorate. Again these reorganisations have been reported to Employment Committee. For example the Communities reorganisation was reported to Employment Committee in February 2014. This deleted the following posts:
  - Assistant Director Commissioning Childrens Services
  - Assistant Director Commissioning Adult Services
  - Associate Director Public Health
  - Head of Neighbourhoods
  - Head of Specialist Commissioning Children's Services

These posts were replaced by two assistant Director posts.

3. Savings from restructuring the teams below AD level. Posts affected by these changes would not be reported to Employment Committee. The principal changes have been in generated efficiencies by bringing together the commissioning functions in Adults and Childrens services and streamlining them. In some case consultations for these changes are underway.

11.4 The benefits arising from having a more co-ordinated approach to commissioning services are not included in the £1m savings, but will help drive forward further savings opportunities in the medium term financial strategy.

## **12. BACKGROUND DOCUMENTS**

Employment Committee papers referred to in this report.