



SIGNED OFF BY	Chief Executive
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TO	Employment Committee
DATE	Thursday, 20 June 2019
EXECUTIVE MEMBER	Portfolio Holder for Corporate Direction and Governance

KEY DECISION REQUIRED	N
WARDS AFFECTED	N/A

SUBJECT	Director Vacancy and Interim Section 151 Arrangements
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RECOMMENDATIONS
<ul style="list-style-type: none"> (i) That Pat Main, Interim Head of Finance, be appointed as the Council's interim Section 151 Officer for the period up to the appointment of the permanent Section 151 Officer. (ii) That the statutory Section 151 responsibilities move from the Director of Finance and Organisation position, to the Head of Finance position. (iii) That following discussions regarding the remit of the role, that plans can commence by officers to recruit to the Director vacancy.

REASONS FOR RECOMMENDATIONS
<p>The Council is legally required to have a Section 151 Officer and the interim appointment recommendation will ensure we comply with our statutory obligations.</p> <p>The recommendation to move the Statutory 151 responsibilities from the Director position is made to reflect previous arrangements when the statutory responsibilities were held at Head of Service level and the parity of this in the organisation structure (the statutory Monitoring Officer responsibilities also sit at Head of Service level). Also by removing the Section 151 responsibilities from the Director role, this widens significantly the potential number of professionals that would be able to apply for the Director role (not just limited to finance professionals with a formal accountancy qualification).</p> <p>Although interim arrangements have been put in place to help address the challenges of the Director position being vacant, these arrangements are not sustainable in the long term. For</p>

this reason, following discussions on the remit of the role, the recommendation is made that officers commence plans to recruit.

EXECUTIVE SUMMARY

This report outlines the arrangements for the Council's Statutory 151 responsibilities, including where in the organisation structure it is recommended this responsibility should sit.

Also addressed in the report is the remit of the vacant Director position for consideration and the recommendation that once this is reviewed and agreed by the Committee, officers can commence recruitment to the role.

Recommendation (i) above is subject to approval by Full Council. Recommendations (ii) and (iii) are for agreement by the Employment Committee.

STATUTORY POWERS

1. Section 151 of the Local Government Act 1972 requires every authority in England and Wales to "... 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". The person holding these responsibilities is referred to as the 'Section 151 Officer' (S151 Officer).
2. Section 113 of the Local Government Finance Act 1988 requires the S151 Officer to be a member of a specified accountancy body. Additional responsibilities are set out in Section 114 of that Act and in the Accounts & Audit Regulations 2015.
3. The S151 Officer plays a key role in helping the organisation balance local service needs with corporate interests whilst ensuring compliance with all financial, statutory and constitutional requirements.

BACKGROUND

4. The Director of Finance and Organisation (Director of F&O) position has been vacant since 13th April 2019. Interim arrangements have been put in place to ensure that those services within the Organisation Directorate continue to report into a Director or to the Chief Executive and key projects/piece of work continue to be progressed.
5. The previous incumbent in the Director of F&O role had a professional financial background, having originally joined the Council as the Head of Finance and S151 Officer. They then retained responsibility for the statutory S151 duties when they moved from Head of Service level to the Director of F&O following a review of the organisational structure in the Summer of 2018.
6. An interim Head of Finance & Assets, Pat Main, was appointed in October 2018 with the remit to cover the vacant role and to support the Director of F&O in reviewing the Finance service and team structure so that the role of the permanent Head of Service could be confirmed ready for permanent recruitment. Pat is a highly experienced finance professional with previous S151 experience with two local authorities (see

Annex 1 for Pat's CV, as set out in the exempt part of the Agenda). During the period of Pat's interim appointment the S151 responsibilities remained with the Director of F&O.

7. The Director of F&O leaving the Council's employment has prompted a need to review the remit of the Director position, including where in the structure the S151 responsibilities should sit – remain at Director level or move back to Head of Service level. The Committee is also requested to consider the arrangements to appoint the interim S151 Officer.

KEY INFORMATION

Interim Statutory Section 151 Appointment

8. Given that the Council is legally required to have an appointed S151 officer, it is recommended that Pat Main be formally appointed as the interim S151 officer, whilst a permanent solution is worked through. This will be until such time that a permanent officer is confirmed and appointed into the role. The Employment Committee Members were advised of the position and informally agreed this approach in April 2019, just prior to the local elections.

Remit of the Director Position

9. The Director of Finance & Organisation is one of three Director positions in the Management Team, reporting to the Chief Executive. They are responsible for providing the overall direction and focus that enables the Council to deliver its agreed objectives, by working closely with the Chief Executive, other Directors, Heads of Service and elected Members.
10. Effective leadership is key in the role, as is ensuring the delivery of the Corporate Plan and overseeing delivery of service/business plans in their Directorate. See Annex 2 for the detailed Director generic role profile.
11. The services that fall within the Organisation Directorate are:
 - Corporate Policy
 - Projects & Performance (including Emergency Planning, Service Improvements, Support Services)
 - Organisational Development & Human Resources
 - IT and Web & Information
 - Legal & Governance (including Procurement, Democratic Services, Elections)
 - Finance & Assets (Finance, Property & Facilities and Commercial)
12. As referenced in the 'Background' section above, the organisation structure was reviewed in the summer of 2018 and at this time, the new Directorate of 'Organisation' was created. The previous incumbent to the Director role came from a professional financial background (having been the the Head of Finance previously) and therefore when she moved into the Director position, retained the S151 responsibilities, and amended the job title to reference 'Finance'.
13. Now the position is vacant, it is the right opportunity to review the remit of the position, and where in the organisation the S151 responsibilities should sit.
14. More details on the role and responsibilities of the s151 Officer are set out in CIPFA's

Statement on the role of the Chief Financial Officer (CFO) in Local Government (2014) (Annex 3). They are expected to be:

- A key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest;
- Actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and alignment with the organisation's financial strategy; and
- Lead the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

To deliver these responsibilities the CFO:

- Must lead and direct a finance function that is resourced to be fit for purpose; and
- Must be professionally qualified and suitably experienced.

15. Returning S151 responsibilities to the Head of Service role is not anticipated to impede the postholder's ability to carry out their CFO responsibilities effectively, given the relative size of Reigate & Banstead Council as an organisation and the collaborative way that its management arrangements currently operate. Obviously this will be dependent on the S151 Officer continuing to have direct and unimpeded lines of communication with the other statutory officers, with all Directors and Heads of Service, and with Members of the Executive and Scrutiny functions. There are also personal capacity benefits to the postholder as they will be able to focus their attention on leading the Finance function rather than having line management responsibilities for a wide range of other services.
16. Another reason to move the S151 responsibilities away from the Director position is around recruiting to the Director vacancy. Given recruitment best practice and the breadth of services in the Directorate, it is advisable that we target as large a talent pool as possible for the role. If the S151 responsibilities remain with the Director, the talent pool will be narrowed significantly, to only target those individuals with significant financial experience and a formal accountancy qualification.
17. It should also be noted that the Council's statutory position of Monitoring Officer sits at Head of Service level (this responsibility sits with our the Head of Legal & Governance). Moving the S151 to Head of Finance level creates some structural parity.
18. If it is agreed that the S151 responsibilities move to the Head of Finance, the proposal will be to remove the explicit reference to Finance from the job title and it reverts back to the "Director of Organisation".
19. The Employment Committee need to be aware that we are currently in the process of recruiting to the permanent Head of Finance position. As well as promotion via our usual advertising methods (recruitment websites, social media promotion, etc.), we have engaged with Penna to help us with this appointment. Penna are executive recruitment consultants and have particular expertise and potential candidate contacts within the Local Government finance professional field as well as potential financial candidates from other sectors.

20. The closing date for the Head of Finance recruitment campaign is 21st June and interviews are provisionally scheduled for 10th July. Making a firm decision now on where the S151 Officer responsibilities 'sit' will allow us to make sure that the Head of Finance recruitment focuses on identifying candidates that are ready to take on the full responsibilities. We anticipate that with any notice periods that may need to be worked, we could be looking at a situation where the successful candidate may be in a position to start with us in the autumn. Arrangements have been made with Pat for her to remain as the interim Head of Finance until the autumn, when all being well a permanent Head of Finance will start.
21. If it is agreed that the S151 responsibilities move to the Head of Finance, this will revert to the permanent incumbent on their commencement date.
22. If it is agreed that the S151 responsibilities move to the Head of Finance role, we will need to ensure our current recruitment timeline and process takes into account the involvement of the Employment Committee to appoint (recommendation to Full Council) to the S151 part of the role. It is suggested that the Employment Committee members could consider suitable candidates for the role at an evening meeting on 10th July.
23. If this is agreed, arrangements will be made to ensure the Employment Committee are fully briefed on the potential candidates, the process and the Committee's exact role in the appointment. Arrangements will also be made to ensure that members of the committee are suitably trained particularly in the law around recruitment and selection and discrimination, before needing to meet to appoint/make recommendations to Full Council for the S151 role.

OPTIONS

24. With regards to the Director vacancy, the Employment Committee has a number of options to consider:
 - Once the remit of the position has been discussed and agreed, work commences to recruit to the vacant post. (recommended)
 - That officers review alternative ways of managing the vacancy/recruitment to the position and report back to the Committee. This would lead to a period of further uncertainty for the organisation and would necessitate us continuing or reviewing our interim 'caretaking' arrangements. Capacity issues within the Management Team could be a risk with this option. (not recommended)
 - That the position is deleted from the Council's establishment. This option would create long term capacity pressure on the Management Team. (not recommended).

LEGAL IMPLICATIONS

25. Procedure Rule 9 of the Constitution (Officer Employment) requires the appointment of the Chief Finance (S151) Officer is made by Full Council following a recommendation from the Employment Committee.
26. Full Council may only make or approve these appointments where no well-founded

objection has been made following notification to all Executive Members of:

- (i) the name of the person concerned;
- (ii) any other particulars relevant to the appointment; and
- (iii) the date by which objections must be made.

27. An Executive Member wishing to make an objection must notify the Leader in sufficient time to enable him to lodge an objection that must be material and well founded on behalf of the Executive to the Proper Officer in writing within 5 working days unless specifically extended.

FINANCIAL IMPLICATIONS

28. The cost of the Head of Finance (including S151 Officer responsibilities) and the Director posts is provided for within existing approved budgets.

EQUALITIES IMPLICATIONS

29. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between people who share those protected characteristics and people who do not;
- Foster good relations between people who share those characteristics and people who do not.

30. The three parts of the duty applies to the following protected characteristics: age; disability; gender reassignment; pregnancy/maternity; race; religion/faith; sex and sexual orientation. In addition, marriage and civil partnership status applies to the first part of the duty.

31. The Committee should ensure that it has regard for these duties by considering them through the course of its work. This should include considering:

- How policy issues impact on different groups within the community, particularly those that share the nine protected characteristics;
- Whether the impact on particular groups is fair and proportionate;
- Whether there is equality of access to service and fair representation of all groups within the Borough;
- Whether any positive opportunities to advance equality of opportunity and/or good relations between people, are being realised.

COMMUNICATION IMPLICATIONS

32. Given the seniority of the Head of Finance role, and wanting to attract the best talent to the role, as explained above we have engaged with Penna using their expertise for the recruitment of the Head of Finance. They have worked with us to create our recruitment campaign information, including a dedicated microsite for the role.

33. If it is agreed to commence recruitment for the Director vacancy, the most effective methods will be considered by HR and the Management Team, which will again include consideration of external senior recruitment consultant/executive search methods, similar to the engagement with Penna .

HUMAN RESOURCES IMPLICATIONS (if applicable)

34. Both the Director and Head of Finance roles are approved and budgeted positions in the Council's establishment.

RISK MANAGEMENT CONSIDERATIONS

35. Should the S151 responsibilities remain at Director level, we will restrict the potential candidate pool. There is a risk of not being able to fill the vacancy, given the limitations.

36. Although interim arrangements have been put in place to address the vacant Director role, this is not sustainable in the longer term. If the Director role remains vacant, risk will arise around officer capacity and the impact on delivery of key pieces of work.

OTHER IMPLICATIONS

37. N/A

CONSULTATION

38. Engagement around the interim S151 proposed arrangements took place with the the previous Employment Committee.

39. Executive Members will be consulted on the proposed appointments as detailed in the legal implications section of the report.

40. The Portfolio Holder for Finance has been consulted with regards to the recruitment process for the Head of Finance.

POLICY FRAMEWORK

41. Ensuring we attract and retain the best people contributes to our Corporate Plan objective of being a Great Council. The three Directorate were established to mirror our Corporate Plan priority theme areas.

ANNEXES

Annex 1 - Curriculum Vitae – Pat Main (restricted)

Annex 2 - Director generic role profile

Annex 3 - Role of the Chief Financial Officer in Local Government, CIPFA 2016.