

Supplementary Committee Agenda



Overview and Scrutiny Committee Tuesday, 24th January, 2012

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.30 pm

Committee Secretary: Simon Hill, Senior Democratic Services Officer, The Office of the Chief Executive
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**9. SENIOR RECRUITMENT TASK AND FINISH SCRUTINY PANEL - FINAL REPORT
(Pages 3 - 14)**

Final report as promised.

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SCRUTINY

REPORT OF THE SENIOR RECRUITMENT TASK AND FINISH PANEL

JANUARY 2012

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1. Chairman's Foreword

1.1 Effective leadership is the key to the success of any organisation. It follows that the recruitment process for key leadership roles should be rigorous and open to scrutiny. This report sets out a proposed procedure, emphasising the need for specialist legal and HR advice in all but routine staff contracts but allowing flexibility of approach depending on circumstances prevailing at the time. I would like to thank my fellow Councillors and officers for their advice and evidence provided to support our conclusions



Councillor Ken Angold Stephen
Chairman, Senior Recruitment Task and Finish Scrutiny Panel
January 2012

2. Introduction

2.1 Following a report to the Council by the Audit and Governance Committee, Overview and Scrutiny Committee were asked to undertake a review of the reporting procedures for the recruitment of the Chief Executive.

2.2 The Overview and Scrutiny Committee, at its meeting on 6 September 2011, agreed to establish a Task and Finish Group to facilitate this review.

2.3 The Committee appointed the following members to serve on the Panel:

Councillors K Angold-Stephens (Chairman), Mrs A Grigg, J M Whitehouse, R Bassett and D Stallan.

2.4 At our first meeting, Councillor David Johnson attended as an Alternate Member for Councillor Bassett who was unable to attend.

2.5 The first meeting of the Panel was held on 10 November 2011. The Panel identified its aims and objectives and Terms of Reference which are reproduced below:

“Aims and Objectives

To bring forward a procedure for the reporting of complex and sensitive contracts to members and a procedure to be followed in the event of such contracts being entered into.

To report their findings to the Overview and Scrutiny Committee for onward consideration by the Council.

To have agreed written procedures in place in time to inform the outcome of the recruitment to the position of Chief Executive which is currently vacant and any issues arising from the review by Ernst and Young in respect of the corporate management structure. “

“Terms of Reference

1. To consider and formulate a written procedure for reporting complex and sensitive senior officer employment contracts to members;

2. To consider the scope and agree positions to which these arrangements should apply (eg. Chief Executive; Deputy Chief Executive; Directors; Assistant to the Chief Executive and other statutory officers);
3. To formulate a procedure on how the Council seek advice on the form of contract and other contractual considerations arising from senior staff appointments taking account of lessons learnt from previous cases;
4. To bring any other recruitment issues arising from the review to the attention of the Committee for the Appointment of the Chief Executive;
5. To report to the Overview and Scrutiny Committee with recommended procedures by 6 March 2012.”

2.6 These were subsequently approved by the Overview and Scrutiny Committee on 29 November 2012

2.7 We have met on three occasions to discuss the issues in this report and have consulted the Council’s Acting Chief Executive, Monitoring Officer, Section 151 Officer and Chief Internal Auditor. Views on this report have also been sought from the Council’s External Auditors.

2.8 Our remit does not include any involvement in current or forthcoming recruitment exercises save advising on an appropriate process that should be followed to ensure members are appropriately advised and involved in future senior recruitment events.

2.9 It is worth mentioning also that we determined very early in our processes that only appointments at Director level and above and senior statutory officer appointments should fall within the remit of the proposals we are recommending.

3. Context

3.1 Senior Recruitment exercises have happened infrequently at the authority. The process is governed by Officer Employment Procedure Rules which are set out in Section M of the Council’s Constitution. The appointment of the Head of the Paid Service is a matter for full Council to determine on the recommendation of a Panel of Members drawn together for the purpose of that appointment. This Panel should comprise members of all political groups and include a member of the Executive. The Council can only approve an appointment where no well-founded objection has been made by any member of the Executive.

3.2 For Directors the appointment is normally undertaken by a Panel of 7 members, including at least one Cabinet member with members being required to undertake recruitment and selection training before taking part in interviews.

3.3 Quite aside from the requirements of the Council’s Constitution, appointments need to be made in accordance with law.

3.4 We have put forward proposals setting out how members are involved in the process of appointment and the steps in such a process that require decisions and/or expert advice being made available to members.

4. Summary of Recommendations

The Panel recommends:

4.1 That the flow chart (Appendix 1 to our report) and guidance note (Appendix 2 to our report) be approved for use in future Senior Recruitment exercises to provide a framework within which the Appointments Panel can work.

4.2 That the process should only apply to Chief Executive; Deputy Chief Executive; Directors; Assistant to the Chief Executive and three statutory officers.

4.3 That careful drafting of delegation to appointments Panel to be clear about extent of powers to recommend to Council any contract variations, appointment, short/long listing etc.

4.4 That reports to members be made in the standard template giving all relevant information which will include financial implications; risk assessments and advice from statutory officers.

4.5 That specialist legal advice be made to members through the PLP and HR advice through VINE or another appropriate bodies and budgeted for by Council.

4.6 That an evaluation process be carried out as a matter of course after each senior recruitment event and reported to the Overview and Scrutiny Committee.

4.7 That after the conclusion of the current exercise, the Officer Employment Procedure Rules be redrafted to:

- (i) incorporate the applicability of section 4 to the Statutory Officer positions; and.
- (ii) include more detail of the objection to appointment process set out in the constitution; and
- (iii) consider its ongoing appropriateness;

It is further suggested by the Panel that the Constitution and Members Services Scrutiny Panel undertake this task.

4.8 That the Committee for the Appointment of a Chief Executive be asked to consider the following issues specific to the post of the Chief Executive:

- (i) clear and measurable performance management and supervision arrangements;
- (ii) ensuring those undertaking performance management and supervision to have undertaken appropriate training and have access to advice; and authority from Council to undertake this role.
- (iii) whether there should be any process put in place for dealing with employment issues short of formal dispute.

4.9 That the new arrangements be reviewed after one year of operation and thereafter annually.

5. Report

5.1 We have been charged with formulating a procedure on how the Council seeks advice on the form of contract and other contractual considerations arising from senior staff appointments taking account of lessons learnt from previous cases.

5.2 As part of our consideration we have reviewed copies of the existing relevant information as follows:

- (1) Report of the Audit and Governance to the Council dated 26 July 2011 (Restricted report)
- (2) Motion moved by the Leader in response to (1) above.
- (3) Extract of the Council minutes dated 26 July 2011; and
- (4) Copy of the agreed Terms of Reference of the Committee for the Appointment of the Chief Executive.
- (5) Officer employment procedure rules – taken from the current council constitution (also see paragraph 5.7 below).
- (6) A process diagram for Senior Officer Recruitment (see appendix 1);
- (7) Chief Officer Recruitment – Guidance Note (see appendix 2);
- (8) Chief Executive – Job Profile;
- (9) Example Council Contract;
- (10) Responses from officers on the proposed review where received;
- (11) Copies of previous reports to Council on appointments in 2007 and 1992 (Restricted Council Reports)

5.3 In addition we have:

- (1) Sought views on the process from the Acting Chief Executive, Assistant Director HR, Chief Internal Auditor and Chief Finance Officer.
- (2) Sought views from other authorities about these type of processes;
- (3) Taken evidence from the Assistant Director HR on matters of process and have discussed the proposed documents discussed below.

5.4 Although there is a procedure for the appointment of senior officers we have discovered that no written guidance sets out how members undertake these key recruitment exercises and ensure effective reporting to members. We understand equally that no two exercises are the same and any process that we devise must be adaptable to each circumstance. We have worked with officers to bring forward two documents. Firstly, a Senior Officer Recruitment flowchart which provides a framework within which members can work for future appointments. This is attached at Appendix 1 to our report.

5.5 Additionally we are commending the use of a guidance note (Appendix 2) which should be read in conjunction with the flowchart and adds more information about the stages in such an exercise.

5.6 We are recommending that the Council, in drafting its delegation arrangements it should give careful consideration about all aspects of the recruitment, particularly:

- (1) The Panel/Committee's Terms of Reference;
- (2) The Panel/Committee's delegated authorisations e.g. to carryout the process and recommend an appointment to Council, or recommend a long list/short list, interview process etc;
- (3) Timescales;
- (4) The relevant officers to be involved, i.e. HR Advisor, Legal Advisor, Finance Advisor (if required), Committee support;
- (5) To establish a budget for any structural change, recruitment and potential legal costs;
- (6) To nominate the 'Proper Officer' in accordance with the Council's Constitution.

5.7 We have also suggested that all future reports are made in a standard format which should ensure that members are able to fully understand the implications of the proposals put to the Council. This report format should give all relevant information including financial implications; risk assessments and advice from statutory officers.

5.8 As part of our consultation process we approached a number of other authorities to seek their views on where difficulties in recruitment exercises might lie. Anecdotal comments suggest two main reasons for difficulties: (i) Changes in the Chief Executive and/or the Leadership; and (ii) lack of clarity during advertising and recruitment as to what would be expected of the post holder. It is, therefore, essential that members can access the appropriate advice on contracts and employment as and when they are required. Sources of such advice have been suggested to us. We are recommending accordingly.

5.9 We consider that an evaluation stage should be included for this and future recruitment exercises in order that our suggested procedures can be reviewed in the light of operational use. We are suggesting that this review comes before Overview and Scrutiny Committee.

5.10 We have received copies of the Officer Employment Procedure Rules that form part of the Constitution. We believe that once the current recruitment exercise is completed it would be timely to review this document to:

- (i) review section (4) to include the statutory officer positions;
- (ii) consider whether greater detail is required within the procedure on the 'Executive' objection process; and
- (iii) its ongoing appropriateness.

It will be matter for Council to determine how this is carried out but we are recommending that the Constitution and members Services Panel could undertake this role.

5.11 Arising from our discussions we are recommending that the Committee for the Appointment of the Chief Executive, specific to the current recruitment, consider how performance management

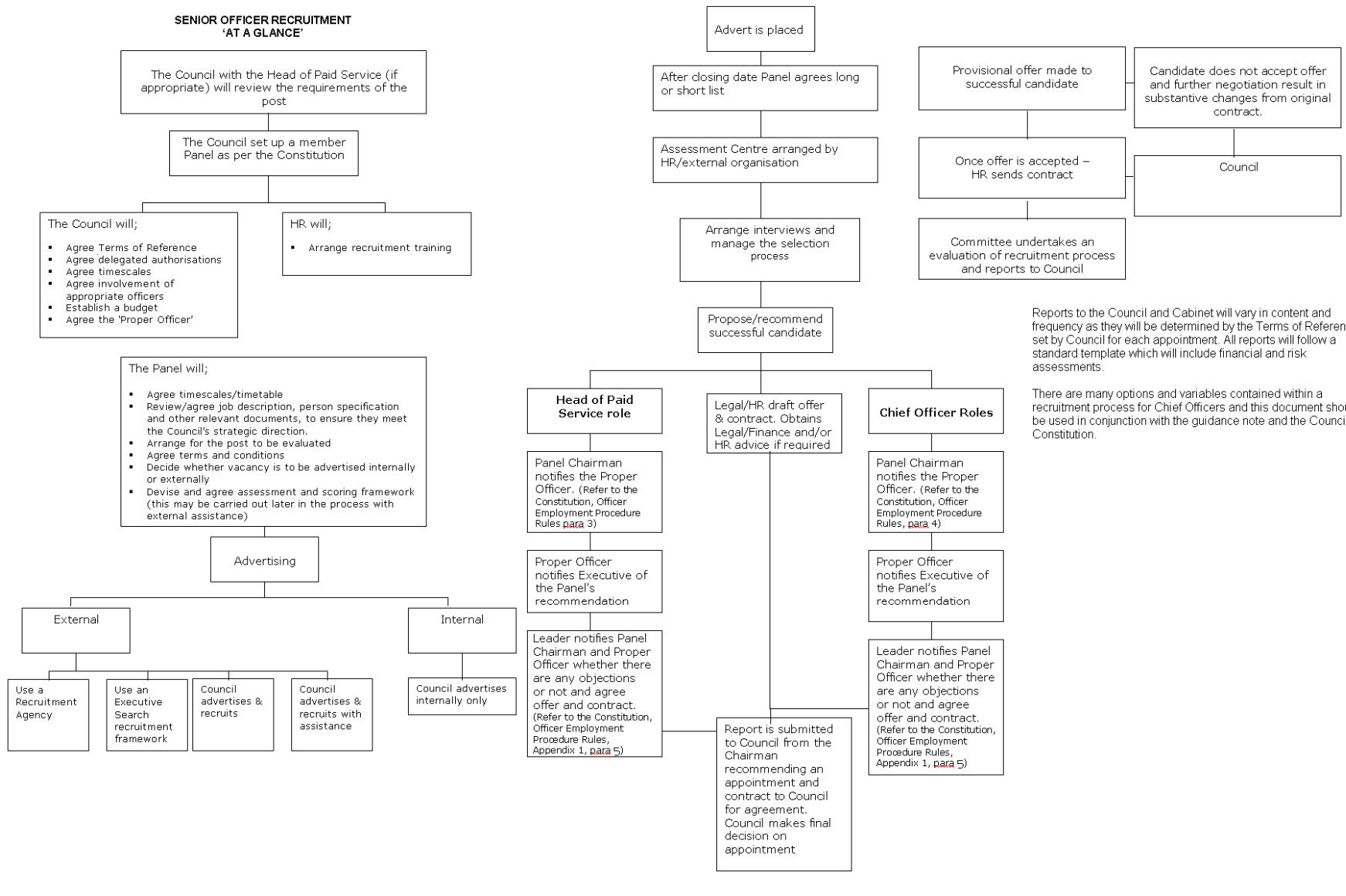
and monitoring of the Council's progress towards meeting the Council's Forward Plan targets can be undertaken.

5.12 Finally, we are suggesting arrangements for the review of the new procedures after a year and then annually thereafter.

6. Appendices

Appendix 1 – 'At a Glance' Flowchart

Appendix 2 - Chief Officer Recruitment – Guidance Note



Reports to the Council and Cabinet will vary in content and frequency as they will be determined by the Terms of Reference set by Council for each appointment. All reports will follow a standard template which will include financial and risk assessments.

There are many options and variables contained within a recruitment process for Chief Officers and this document should be used in conjunction with the guidance note and the Council's Constitution.

Chief Officer Recruitment – Guidance Note

Council

Where a vacancy arises at Chief Officer level, including the Chief Executive role, the Council is required to;

- Review whether post is required. Can work be carried out a different way? This should be carried out with the Executive if recruiting to a Chief Officer role.
- Set up a member Panel as per the Constitution.
- Agree;
 - The Panel's Terms of Reference
 - The Panel's delegated authorisations i.e. to carryout the process and recommend an appointment to Council, or recommend a long list/short list, interview process etc
 - Timescales
 - The relevant officers to be involved, i.e. HR Advisor, Legal Advisor, Senior Committee Secretary
 - To establish a budget for recruitment and potential legal costs
 - To nominate the 'Proper Officer' in accordance with the Council's Constitution.

(This list is not exhaustive. Council will be presented with a checklist of terms/authorisations to consider along with any further items Council wish to include)

Recruitment Panel

The Panel should;

- Agree timescales/timetable for the campaign
- Review/agree job description, person specification and other relevant documents, to ensure they meet the Council's strategic direction.
- Arrange for the post to be evaluated if appropriate
- Agree terms and conditions that the post will be offered on. This will be subject to legal advice, (which may only be to confirm that it meets the Council's objectives and that there are no unintended consequences), HR and finance advice. The Panel may be required to obtain the Council's agreement at this stage, however, this will depend on their Terms of Reference and delegated authorisations.
- Decide whether vacancy is to be advertised internally or externally
- The Panel will be required to devise and agree their assessment and scoring framework
- HR will arrange recruitment training for the Panel, including its responsibilities contained within the Constitution.
- HR will arrange a procurement briefing for the Panel if required.

Membership of Recruitment Panel

- To recruit to the Head of Paid Service/Chief Executive - Members, HR advisor and assisting organisation if appropriate
- To recruit to Chief Officer - Members, Head of Paid Service/ Chief Executive, HR advisor and assisting organisation if appropriate

Advertising

If the Panel wish to advertise the role externally there are a number of options they could consider;

- Using a Recruitment Agency with no recruitment advertising campaign
- Using an Agency/consultancy/executive search. There are a number of frameworks which already exists that the Council can use;
 - Essex County Council
 - London Boroughs (will have to pay a fee to join approx £250)
- Advertise and recruit ourselves
- Advertise and recruit ourselves with assistance from the East of England Local Government Association (EELGA), or the Essex HR Partnership (Vine HR)

The Panel can decide to advertise internally only. The Panel still may wish an external organisation to manage the process.

Process

Once the job description, person specification, salary and terms & conditions are agreed an advert can be placed.

Once the closing date has passed a long or short list is agreed using the agreed assessment and scoring framework. The Panel can work with their consultants to do this or task them to draw up a long list in the first instance.

The Council can work with a Recruitment Agency/Consultants/Executive Search organisation to develop/organise an 'assessment centre' i.e. psychometric tests, presentations, reports, interviews, group & individual exercises.

Or this could be devised arranged internally with assistance from Vine HR or EELGA.

The Panel/Committee will decide at the time of procuring external consultancy what tasks it wants them to carryout. This may be amended as the process is progressed but it should not vary too much from the initial brief, due to procurement rules and that there is likely to be an additional cost.

Appointment/Offer

The Panel is required to follow the appointment process set out in the Council's Constitution. (Refer to Officer Employment Procedure Rules, para 3, para 5 and Appendix 1 para 4).

If the provisional offer is not accepted by the successful candidate which results in further negotiations and substantive changes from the original contract then agreement will be required from Council.

Constitution

The relevant information for the appointment of Senior Officers is contained in the Council's Constitution in the section titled 'Officer Employment Procedure Rules'.

Contract

HR/Legal will draft the provisional offer letter and Statement of Particulars and submit them to Counsel or the Public Law Partnership or another suitable body for advice.

Reports to Council/Cabinet

Reports to the Council and Cabinet will vary in content and frequency as they will be determined by the Terms of Reference set by Council for each appointment. All reports will follow a standard template which will include financial and risk assessments.

Evaluation

The Appointment Panel will undertake an evaluation of recruitment process, reviewing what worked well and not so well and submits a report to Council on their conclusions and key learning issues.