

Extract from the report to the Appointments Committee on 20th May 2008

SUBJECT: The process for making appointments to Chief Officer posts as a consequence of a senior management realignment

REPORT DETAIL

In implementing changes to the Council's Corporate Management and Leadership Teams it is necessary to determine the process of appointment most appropriate for the appointment of chief officers (which phrase includes deputy chief officers), consistent with the Constitution, the Council's HR policies and the need to proceed in a timely manner.

The conditions of services for members of the Corporate Management and Leadership Teams are governed by the Joint Negotiating Committee for Chief Officers in Local Government. The relevant JNC handbook contains a redundancy procedure which, in the absence of any locally agreed procedure, should be followed in situations where a chief officer may be selected for redundancy. The JNC procedure contains the following four provisions:

- Employing authorities should consult with any chief officer affected at the earliest possible stage;
- A period of not less than 28 days should be allowed for the statutory consultation period;
- The officer should be offered any suitable alternative employment that may be available or which may become available as a consequence of any reorganisation giving rise to the abolition of the chief officer's post; and
- The authority should bear in mind the possible application of discretionary powers of premature retirement, and permissible enhancements of benefits or redundancy payments, and the possibilities of providing an alternative post or of extending the period of notice to assist the chief officer in finding other employment.

The Council's current own Managing Organisational Change and Redundancy procedure, adopted by the Cabinet in April 2005 as a result of the Joint Agreement on Building a Healthy Organisation, specifically excludes chief officers from its scope.

The process which the Committee is asked to adopt in this Report is thus modelled on the JNC procedure, but with due regard for the principles contained in the BHO procedure where these do not conflict with the national provisions. The recommended process is set out below.

1. Voluntary Redundancy

Where possible, the necessary reduction should be achieved through voluntary redundancy. Any chief officer who wishes to be considered for voluntary redundancy should be asked to inform the Head of Human Resources (or such other person whom the Chief Executive may so designate for this purpose) in writing by the relevant date that has been stipulated for this purpose. Such requests must be made on an unconditional basis, i.e. not conditional on the exercise of any permissible enhancements of benefits or redundancy payments. Such requests will be determined by the Appointments Committee whose decision shall be final.

In addition to considering applications from chief officers whose posts have been deleted or otherwise directly affected as a consequence of the reorganisation in question, the Committee may, at its absolute discretion, consider applications from unaffected chief officers where, by so doing, this would create a suitable alternative employment opportunity for an affected chief officer.

2. Assimilation Process

If the relevant chief officers are unsuccessful in their request or, alternatively, did not wish to be considered for voluntary redundancy then they will be required to participate in the assimilation process.

A ring-fence will be drawn around each chief officer post in the new structure. To be eligible for inclusion in a particular ring-fence, it will be necessary to demonstrate that the chief officer concerned is carrying out a discrete but substantial 'function' that has been included in the portfolio of the new function. The Head of Human Resources (or other designated officer) shall adopt a common-sense approach to defining what constitutes a discrete but substantial 'function' having particular regard to nationally-recognised professional status and whether its inclusion in a particular portfolio significantly changes the responsibilities of the existing portfolio holder. Thus, children's social services, business systems, housing, regeneration and street care are all examples of what could constitute a 'function' under this definition.

Role profiles for the roles in the new structure will be drawn up and these will be evaluated independently. The Council currently uses the Hay Job Evaluation methodology for evaluating its chief officer posts and, for so long as it continues to do so, Hay Group will be the designated external evaluator.

Having determined the appropriate ring-fencing arrangements, role profiles for the relevant posts in the new structure will be sent to the chief officers concerned, which they should read and carefully consider any specific requirements that they will need to meet in order to be appointed to any particular post.

All decisions on appointments will be taken by the Appointments Committee.

3. Uncontested Assimilations

Where there is only one candidate for any of the available roles, and s/he satisfies any statutory requirements necessary for appointment, then that candidate should be appointed into the role without any further process. Failure to do so would contravene the Council's policy, adopted by the Cabinet in December 2003, to minimise or avoid redundancies wherever possible and the unsuccessful candidate could issue an Employment Tribunal claim and if that was successful this is likely to result in the Council incurring significant additional costs.

4. Contested Assimilations

Where there is more than one candidate for a particular role, and they satisfy any statutory requirements, then a competitive assimilation exercise will need to be undertaken.

This exercise will have two stages, the first stage will take the form of an assessment centre, managed by an external organisation appointed by the Head of Human Resources (or other designated officer). The outcome will be the production of a confidential, graded report on each candidate for consideration by the Appointments Committee.

The second stage will take the form of an interview with the Appointments Committee, with the Chief Executive, the Head of Human Resources (or other designated officer) and a representative of the organisation managing the assessment centre present in advisory capacities.

The Appointments Committee should select the candidate who best meets the requirements set out for the role, based upon consideration of the assessment centre report and the interview. Again, failure to make any appointment will incur risks similar to those outlined for uncontested appointments.

5. Selection for Redundancy

Any chief officer who has not been appointed to any ring-fenced post will automatically be selected for redundancy. Where the Head of Human Resources (or other designated officer) has formed the view that there are no other posts on the Council's establishment that would constitute a suitable alternative offer of employment then the chief officer concerned will be made redundant and be entitled to receive redundancy payments in accordance with the terms of the Council's policy on redundancy payments. Where the designated officer is not professionally qualified in HR matters then s/he will be responsible for obtaining the appropriate professional advice.

The date upon which any redundancy takes place will be determined taking account of the effective date for the implementation of the new structure in question, any legal and/or contractual requirements relating to matters such as statutory consultation requirements and notice periods. These, and any other steps necessary to implement the Committee's decisions relating to individual chief officers, shall be delegated to the Head of Human Resources (or other designated officer).

The Council may, at its discretion, offer outplacement counselling to a redundant chief officer. Authority to offer outplacement counselling will be delegated to the Head of Human Resources, in consultation with the chief officer's line manager. Outplacement counselling will be provided through an outplacement organisation selected and approved by the Council for this purpose and subject to a limit of £5,000 per chief officer (or such limit that may from time to time be determined following a market testing exercise of outplacement organisations). The chief officer will be offered a choice of two organisations. Budgetary provision will be made by the employing directorate.

6. Redeployment

Where, however, the Head of Human Resources (or other designated officer) has formed the view that suitable alternative employment may be available, the chief officer will be required to participate in a process which mirrors the process described above for contested assimilations.

Where the Appointments Committee is satisfied that the chief officer concerned meets the minimum requirements necessary to perform the alternative role, then s/he will be appointed to that role.

Where alternative roles exist which are not deemed to constitute suitable alternative employment for the chief officer concerned then these may, subject to the agreement of both the Appointments Committee and the chief officer concerned, be designated as an alternative employment opportunity and ring-fenced to the chief officer concerned. If the chief officer does not agree then s/he will be made redundant. The chief officer will be required to participate in the two stage appointment process and, if successful, will be appointed to the post subject to a 28 day trial period. If, following the trial period, either party deems the trial period to be unsuccessful then the chief officer will be declared redundant and be entitled to receive redundancy payments as if the trial period had not existed. Where, following a successful trial period, the chief officer accepts the post then s/he will do so on the terms and conditions that normally pertain to that post and will not be eligible for salary protection.

7. Right of Appeal against Selection for Redundancy

In accordance with the legal requirements in force and the Conditions of Service applicable to staff falling within the scope of the JNC for Chief Officers, a chief officer selected for redundancy has the right of appeal to an Appeals Committee of elected Members. The Appeals Committee should comprise three Members and be drawn from membership of the Governance Committee, excluding those of its Members serving on the Appointments Committee who took the decision under appeal.

The Appeals Committee's decision shall be final and no further avenues of appeal will be open to the chief officer within the Council.