

## COUNCIL

29<sup>th</sup> June 2020

### APPOINTMENT OF INTERIM CHIEF EXECUTIVE

#### Report of the Monitoring Officer

Strategic Aim:	All	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Communications, Resources (other than Finance)	
Contact Officer(s):	Phil Horsfield, Monitoring Officer	01572 758154 phorsfield@rutland.gov.uk
	Carol Snell, Head of Human Resources	01572 720969 csnell@rutland.gov.uk
Ward Councillors		

#### DECISION RECOMMENDATIONS

That Council:

1. Approves the Appointment of Mr Mark Andrews as Interim Chief Executive Officer (Head of Paid Service)
2. Approves the appointments to the Proper Officer appointments detailed in Appendix A
3. Delegates the agreement of the date of commencement of the roles to the Monitoring Officer in consultation with the Leader and Deputy Leader of the Council.
4. Notes the contractual end date of the current Head of Paid Service.
5. Notes that a suitable handover period will be agreed as a part of recommendation 3 above.

#### 1 PURPOSE OF THE REPORT

- 1.1 The purpose of the Report is to seek Council approval of the appointment of Mr Mark Andrews as the Interim Chief Executive Officer (Head of Paid Service), put in

place delegations to enable an effective handover and make ancillary appointments to various proper officer roles.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

### **2.1 Legislation**

- 2.1.1 The Council is required by Section 4 of the Local Government and Housing Act 1989 to appoint a Head of Paid Service.
- 2.1.2 Section 7(2) of the Local Government and Housing Act 1989 requires that the council ensure that the appointment of the Chief Executive/Head of Paid Service is made on merit.
- 2.1.3 Local Authorities (Functions and Responsibilities) (England) Regulations 2000 require that the appointment of the Head of Paid Service shall not be a function of the Executive and therefore this is a Council function.
- 2.1.4 Cabinet Members are required to be notified and provided with a period to submit a well-founded objection further to the Local Authorities (Standing Orders) (England) Regulations 2001/3384 (Schedule 1, Part 2, Para 5). The period of time for this objection is likely to be 5 working days.

### **2.2 Constitution**

- 2.2.1 Procedure Rule 342 deals with appointment of the Head of Paid Service and says that:

*1) This process is subject to mandatory regulations.*

*a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or sub-Committee of the Council. That Committee or sub-Committee must include at least one member of the Cabinet.*

*b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.*

- 2.2.2 Paragraph (a) above is effectively a delegation of the appointment to a committee or sub-committee. The parent body (in this case full Council) retains the ability to make the decision. This means that the decision can be made by Full Council without prior consideration by a committee or sub-committee.

- 2.3 Procedure Rule 343 deals with the appointments and requires:

*5) Before the Council appoints a person as a Chief Officer, the Monitoring Officer shall report to the Council:*

*a) whether, in his opinion, the appointment can be made*

*i) without the contravention of any provision of Part I of the Local Government and Housing Act 1989, and*

*ii) without taking into account any matter which ought not to be taken into account*

*either because of any statute, enactment or any provisions of these Procedure Rules; and*

*b) if in his opinion the appointment cannot be made as mentioned in sub paragraphs i) and ii) of paragraph a) above, his reasons for that opinion. ...*

### **3 APPOINTMENT PROCESS**

- 3.1 As described in Appendix B the Council has undergone an appointment process in relation to this role that has included seeking expert assistance in order to ensure that the duty to appoint on merit (set out in 2.1.2 above) is met.
- 3.2 Councillors will see that the recommendations in this Report align with the advice provided by the recruitment consultants.
- 3.3 As the recruitment process cannot be finalised as originally laid out and all other potential and reasonable options have been explored, the proposal in this report is that we proceed as identified in this report to secure an interim appointment as 3.4.
- 3.4 The approach recommended is that Mr Mark Andrews be appointed to the role on an interim basis, this will be for a period of 12 months. At the end of this period a further report will be brought to Council to consider whether to make the position permanent or continue with a further recruitment exercise.

### **4 COMMENCEMENT**

- 4.1 With the present situation and as the proposed appointment is an internal officer then this enables some flexibility in finalising the start date. Should Council approve the appointment then the recommendations provide for the ability to arrange a start date that will ensure a smooth transition, enable Mrs Briggs to continue to contribute to key projects where both her knowledge and relationships will require a substantial handover.
- 4.2 It is also recognised that the Council will need to put in place arrangements for dealing with the roles that Mr Andrews currently occupies. The arrangements proposed mean that flexibility is retained to ensure continuity for these roles at a time when safeguarding risks are clearly heightened and there are significant additional demands owing to the pandemic.
- 4.3 Mrs Briggs final contractual date of employment will be 4 September 2020.

### **5 PROPER OFFICER APPOINTMENTS**

- 5.1 The post of Chief Executive holds certain proper officer appointments currently. Appendix A details the proposed allocation of those functions where the appointment is the responsibility of Council.
- 5.2 Council is asked to approve the particular arrangements in this case the key elements contained are:
  - 5.2.1 The appointment of the Director of Adult Social Services
  - 5.2.2 The appointment of the Director of Children's Services

- 5.2.3 Both appointments will be subject to a review at 3 monthly intervals by the Interim Chief Executive should Council approve the recommendations.
- 5.3 In addition to this there are variations to the provisions
  - 5.3.1 Lines 20,21,23,30 and 35 the Monitoring Officer has been added;
  - 5.3.2 Line 46 the legislation has been updated;
  - 5.3.3 Line 50 the Governance Officer has been included to reflect revised arrangements;
  - 5.3.4 Lines 51 and 53 the Business Support and Data Protection Officer has been included to reflect the information governance arrangements.

## **6 CONSULTATION**

- 6.1 In line with the requirements set out in paragraph 2.1.4 above an email was sent to all Cabinet members on 23 May 2020 requesting that they provide any well-founded objections by 12pm on Friday 29<sup>th</sup> May.
- 6.2 No objections have been received from Cabinet and therefore the advice provided is that Council can proceed to make the appointment should it so wish.
- 6.3 The Leader has also explained that he separately worked with the other Group Leaders in considering the course of action proposed.

## **7 ALTERNATIVE OPTIONS**

- 7.1 A number of other options have been considered.
- 7.2 The first is not to appoint. This is not an option as the Council is required to have in place a Head of Paid Service by Section 4 of the Local Government and Housing Act 1989.
- 7.3 The appointment of an interim Chief Executive – there are several specific issues which compromise this as a feasible option:
  - 7.3.1 costs of an estimated daily rate of £1,000+ expenses would create a budget pressure for the Council,
  - 7.3.2 the potential disruption to the current senior management team
  - 7.3.3 a further time delay since in order to put in place an appropriate process and as already highlighted in para 3.2, and undertaking a robust and engaging process would be challenging
- 7.4 Ending the process and going back out to market – as detailed in Appendix B this would require ‘something different’ added to the offer in order to engage and attract a different range of candidates. Furthermore, issues of timing and process are still prevalent but even more extended.

## **8 FINANCIAL IMPLICATIONS**

8.1 The proposed arrangements can be met within the existing budget.

## **9 LEGAL AND GOVERNANCE CONSIDERATIONS**

9.1 These are contained with the main body of the report.

## **10 DATA PROTECTION IMPLICATIONS**

10.1 A Data Protection Impact Assessments (DPIA) has not been completed as the information contained in the report is information that will be publically available.

## **11 EQUALITY IMPACT ASSESSMENT**

11.1 An Equality Impact Assessment (EqIA) has not been completed in relation to the specific appointment however the Council is required to have regard to its equality duty in making all decisions. The open nature of the initial process provided an opportunity for all sections of our communities to be considered.

## **12 COMMUNITY SAFETY IMPLICATIONS**

12.1 There are no Community Safety implications arising from the report.

## **13 HEALTH AND WELLBEING IMPLICATIONS**

13.1 There are no Health and Wellbeing Implications arising from the report

## **14 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

14.1 It is recommended that Council appoint Mr Mark Andrews as Interim Chief Executive Officer (Head of Paid Service).

14.2 Approves the appointments to the Proper Officer appointments detailed in Appendix A

14.3 Delegates the agreement of the date of commencement of the roles to the Monitoring Officer in consultation with the Leader and Deputy Leader of the Council.

14.4 Notes the contractual end date of the current Head of Paid Service.

14.5 Notes that a suitable handover period will be agreed as a part of recommendation 3 above

14.6 The reasons for the recommendations are as set out in the report – in short to meet the statutory requirement to appoint proper officers include the Head of Paid Service

## **15 APPENDICES**

15.1 Appendix A – List of Proper Officer Appointments

15.2 Appendix B – Report of Recruitment Consultants

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.