

# **Cherwell District Council**

## **Council**

**22 March 2017**

<p><b>Appointment of Joint Chief Executive, Head of Paid Service, Returning Officer and Electoral Registration Officer</b></p>
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### **Report of Interim Head of Paid Service**

This report is public

#### **Purpose of report**

To seek Council's approval of the recommendations of the Joint Commissioning Committee that Yvonne Rees be appointed to the posts of Joint Chief Executive, Head of Paid Service, Returning Officer and Electoral Registration Officer with effect from a date to be agreed in June/July 2017 with the new post holder by the Interim Head of Paid Service in consultation with the Chief Finance Officer, Head of Law and Governance, Chairman and Vice-Chairman of the Joint Commissioning Committee.

#### **1.0 Recommendations**

Council is recommended, subject to South Northamptonshire Council resolving in similar terms at its meeting on 23 March 2017:

- 1.1 To agree the recommendation of the Joint Commissioning Committee that Yvonne Rees be appointed Joint Chief Executive from a date to be agreed in June/July 2017 with the new post holder by the Interim Head of Paid Service in consultation with the Chief Finance Officer, Head of Law and Governance, Chairman and Vice-Chairman of the Joint Commissioning Committee.
- 1.2 To agree the recommendation of the Joint Commissioning Committee that Yvonne Rees be appointed the Council's Head of Paid Service for the purposes of Section 4 of the Local Government and Housing Act 1989 with effect from a date to be agreed in June/July 2017 with the new post holder by the Interim Head of Paid Service in consultation with the Chief Finance Officer, Head of Law and Governance, Chairman and Vice-Chairman of the Joint Commissioning Committee.
- 1.3 To agree that, in accordance with Section 8 of the Representation of the People Act 1983 and all related legislation, Yvonne Rees be appointed as Electoral Registration Officer for Cherwell District and South Northamptonshire Councils from a date to be agreed in June/July 2017 with the new post holder by the Interim Head

of Paid Service in consultation with the Chief Finance Officer, Head of Law and Governance, Chairman and Vice-Chairman of the Joint Commissioning Committee.

- 1.4 To agree that, in accordance with Section 35 of the Representation of the People Act 1983 and all related legislation Yvonne Rees be appointed as Returning Officer for Cherwell District and South Northamptonshire Councils with authority to act in that capacity for elections to the Council and all parish and town councils within the area of both councils; from a date to be agreed in June/July 2017 with the new post holder by the Interim Head of Paid Service in consultation with the Chief Finance Officer, Head of Law and Governance, Chairman and Vice-Chairman of the Joint Commissioning Committee.
- 1.5 To agree that Yvonne Rees be also appointed or authorised to act in respect of all related electoral, polling or referendum duties, including in relation to County Council elections, elections to the European Parliament, and for national and regional polls or referendums and be authorised to exercise all delegated powers of the Returning Officer and Electoral Registration Officer as set out in the constitution; from a date to be agreed in June/July 2017 with the new post holder by the Interim Head of Paid Service in consultation with the Chief Finance Officer, Head of Law and Governance, Chairman and Vice-Chairman of the Joint Commissioning Committee.
- 1.6 To agree that, in relation to the duties of Returning Officer or any other electoral, referendum or polling duties arising from such appointment, the Returning Officer shall be entitled to be remunerated in accordance with the scale of fees approved from time to time by Council for local elections, or the relevant scale of fees prescribed by a Fees Order in respect of national, regional or European Parliament elections, polls or referendums.
- 1.7 To agree that in all cases where it is a legal requirement or normal practice to do so, the Returning Officer may elect for such fees to be superannuable, and the Council shall pay the appropriate employer's contribution to the superannuation fund, recovering such employer's contributions from central government or other local authorities or agencies where this can be done.
- 1.8 To agree that, in relation to the conduct of local authority elections and polls, and elections to the United Kingdom Parliament, and all other electoral duties where the Councils are entitled by law to do so, they shall take out and maintain in force insurance indemnifying the Councils, the Electoral Registration Officer and the Returning Officer against legal expenses reasonably incurred in connection with the defence of any proceedings brought against the Councils, Electoral Registration Officer or the Returning Officer and/or the cost of holding another election in the event of the original election being declared invalid (provided that such proceedings or invalidation are the result of the inadvertent contravention of the Representation of the People Acts or other legislation governing the electoral process, and provided that, in the case of the Electoral Registration Officer and the Returning Officer, such proceedings or invalidation arise from an act or omission which the Officer reasonably believes is within the Officer's powers).
- 1.9 To agree that, in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the Councils, through their internal insurance

fund or otherwise, will indemnify the Electoral Registration Officer and Returning Officer up to the value of such excess.

- 1.10 To agree that the Councils note their duty to provide support to the Electoral Registration Officer and Returning Officer
- 1.11 To agree that the terms of appointment of Ian Davies as Interim Joint Head of Paid Service and Paul Sutton as Interim Returning Officer and Interim Electoral Registration Officer end on the date on which the new permanent Joint Chief Executive takes up her post.

## **2.0 Introduction**

- 2.1 Section 4 of the Local Government and Housing Act 1989 requires every relevant authority to 'designate' one of their officers as Head of Paid Service. The Council's constitution designates this post holder as Joint Chief Executive for Cherwell District Council and South Northamptonshire Council.
- 2.2 Section 8 of the Representation of the People Act 1983 ("the 1983 Act") requires every relevant authority to 'designate' one of their officers as Electoral Registration Officer, Section 35 of the 1983 Act requires every relevant authority to 'designate' one of their officers as Returning Officer.
- 2.3 Following an announcement by Sue Smith in December 2016 that she would be standing-down as Joint Chief Executive in March 2017, the Chief Finance Officer was tasked with leading on the recruitment of a new incumbent. During the period January to March 2017 the Joint Commissioning Committee met on three separate occasions to consider potential candidates culminating in the selection of their preferred candidate on 10 March 2017.

## **3.0 Report Details**

- 3.1 In December 2016, Sue Smith informed the leaders of both councils of her intent to leave the councils in March 2017 to pursue new challenges. Immediately, work was undertaken to identify and engage a suitably qualified recruitment consultancy to conduct the search for a new Joint Chief Executive.
- 3.2 Following a tender process, Veredus were announced as the successful bidder. It was agreed that the post should be advertised in the Municipal Journal and a recruitment microsite created and both these ran for the period 12 January to 10 February 2017.
- 3.3 On 16 February 2017 the Joint Commissioning Committee considered the 26 applications which had been received and decided to long list nine candidates for interview by Veredus. The Committee met again on 27 February 2017 to consider the Veredus analysis of long-listed candidates. Based on this assessment the Committee agreed that five candidates should proceed to assessment and interview stage.

- 3.4 During the first week of March 2017 shortlisted candidates underwent assessment and suitability reports were provided to the Joint Commissioning Committee to consider. The Committee then held interviews on 10 March 2017 at South Northamptonshire Council.
- 3.5 The Committee selected Yvonne Rees as the preferred candidate. Yvonne is currently the Joint Surrey County Council - Strategic Director Customer & Communities & Mole Valley District Council – Chief Executive Officer, a post she has held since her appointment in September 2012. Additionally Yvonne is the Returning Officer and Electoral Registration Officer for Mole Valley District Council.
- 3.6 In a local government and commercial career spanning 27 years, Yvonne has held key posts as:
- Strategic Director of Customers and Communities, Surrey County Council (March 2009 – Sept 2012).
  - Head of Cultural Services, Surrey County Council (May 2006 – March 2009).
  - Internal Management Consultant - working with RSM Robson Rhodes Consultants (September 2005 – May 2006).
  - Surrey County Council Trading Standards – Assistant County Trading Standards Officer –Head of Service for Business (January 2002 – September 05).
- 3.7 It should be noted that to take effect this decision also requires the agreement of South Northamptonshire Council which is due to meet on 23 March 2017.

### **Compliance with Officer Employment Procedure Rules**

- 3.8 It is a requirement of the constitution that the Monitoring Officer, reports confirming compliance with the following principles of the Officer Employment Procedure Rules:

The Council will:

- Draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed and make arrangements for a copy of the statement to be sent to any person on request.
  - Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.
  - Interview all applicants (or, if appropriate, shortlist for interview) via the appropriate Committee (in this case the Joint Commissioning Committee replacing the Joint Personnel Committee).
- 3.9 The Council's recruitment consultants have made the following information available to the Monitoring Officer:

- A full job outline, listing principal duties and accountabilities, and a detailed person specification were drawn up as part of a briefing pack available via the Veredus web site.
- That the vacant post was advertised in the Municipal Journal which is an appropriate professional publication to ensure that suitably qualified persons would see it.
- That all persons accessing the consultants' web site as directed in the advertisement were able to download the briefing pack which advised them to submit their CV and a supporting statement by email if they wished to apply for the vacancy.
- That there were no known problems with the consultants' web site that would have made the details inaccessible during the relevant period.

3.10 The Monitoring Officer can therefore confirm compliance with the constitutional requirements.

#### **Head of Paid Service**

3.11 Section 4 of the Local Government and Housing Act 1989 requires every relevant authority to 'designate' one of their officers as Head of Paid Service. The Council's constitution designates this post holder as Chief Executive. Since 13 March 2017 the interim Head of Paid Service role has been held by Ian Davies.

3.12 The Head of Paid Service will appoint a deputy when appointed; the current appointee is Paul Sutton, Chief Finance Officer.

#### **Returning Officer and Electoral Registration Officer**

3.13 Both Cherwell District and South Northamptonshire Councils have a statutory responsibility to appoint a Returning Officer and Electoral Registration Officer.

3.14 The positions of Returning Officer and Electoral Registration Officer are a personal responsibility on the officer concerned. In other words, the appointments are separate from appointment as an Officer of the Councils. In carrying out each role the Officer concerned is accountable to his or her statutory responsibility, not to the Councils that are their main employer. For that reason, the provisions in the appointing resolutions need to be more explicit than would be the case with ordinary appointments.

3.15 It should be noted that whilst these are separate appointments the councils have a duty to provide support to the appointee as set out below:

#### **Assistance for Electoral Registration Officers**

3.16 In England a district council or London borough council is required to assign such officers to assist the registration officer (ERO) as may be required for carrying out his functions under the 1983 Act (section 52(4) of the 1983 Act, as substituted by Schedule 4 to the Representation of the People Act 1985).

## **Assistance for Returning Officers**

- 3.17 Section 28(5) of the 1983 Act (as amended by paragraph 6(b) of Schedule 4 to the Representation of the People Act 1985 and Schedule 16 to the Local Government (Wales) Act 1994) permits district councils and London borough councils in England to assign officers of the council to assist the RO/ARO in carrying out all or any of his duties at an election.
- 3.18 The posts of Interim Returning Officer and Electoral Registration Officer have been held by Paul Sutton since 13 March 2017.
- 3.19 The Returning Officer when appointed will appoint a Deputy Returning Officer. The appointee is currently James Doble, Assistant Director – Transformational Governance.
- 3.20 The position of Deputy Electoral Registration Officer is separately appointed by Council and the current appointee is James Doble, Assistant Director – Transformational Governance.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 The designation of Head of Paid Service, Returning Officer and Electoral Registration Officer are statutory requirements and having followed due process Council is recommended to appoint Yvonne Rees.
- 4.2 The following options have been identified. The approach in the recommendations is believed to be the best way forward:

<b>Option One</b>	Appoint Yvonne Rees. This is the recommendation of the Joint Commissioning Committee following the recruitment process.
<b>Option Two</b>	Not to appoint Yvonne Rees and to make an alternative recommendation. This is not recommended by the Joint Commissioning Committee, as Yvonne Rees has been selected as the preferred candidate following the recruitment process.

## **5.0 Consultation**

Executive Members.

It is a legislative requirement that the proper officer has been notified by the appointer of the name of the proposed appointee as Head of Paid Service and any other particulars relevant to the appointment.

In accordance with this requirement, the proper officer of both authorities was notified on 10 March 2017 and has in turn notified every Executive

Member of the above, informing them of the three day period within which any objection to the proposed appointment can be made by the Leader of the Council on behalf of the Executive.

The proper officer has confirmed that no such objections have been made within the stated period.

## **6.0 Implications**

### **Financial and Resource Implications**

- 6.1 The costs of employing a Joint Chief Executive have been built into the budget and Medium Term Financial Strategy. The election fees for the Returning Officer are met from existing council budgets, external funders such as the County Council and from external government grant.

Comments checked by:

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### **Legal Implications**

- 6.2 Local authorities have a duty under the Local Government and Housing Act 1989 to designate one of their officers as the head of their paid service. This post is one of three statutory appointments (the others being the section 151 officer and the monitoring officer) that every local authority is required to make. The Council must therefore ensure that such appointment is made.

It is a legal requirement that the council appoints a Returning Officer and Electoral Registration Officer. The recommendations set out in this report meet this requirement.

Pursuant to section 113 of the Local Government Act and their associated agreement between the Cherwell District and South Northamptonshire Councils (as varied) it is permissible for an individual to be an officer of both the employing Council and the other Council for the purposes of these shared appointments.

Comments checked by:

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### **Risk Management**

- 6.3 The principal risks associated with these appointments are all on the Officer who holds them. The risks to the Councils are that without making adequate provision to remunerate, train and indemnify that Officer it may fail to identify a person prepared to undertake these statutory tasks or, having made such an appointment, run the reputational risk associated with a successful legal challenge that exposes the

Officer to significant financial loss as a result of a failure of the Councils to do what is lawful and appropriate

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## 8.0 Decision Information

### Wards Affected

None directly

### Links to Corporate Plan and Policy Framework

None directly

### Lead Councillor

None

## Document Information

Appendix No	Title
None	None
Background Papers	
None	
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