

# **Cherwell District Council**

## **Council**

**18 December 2023**

### **Appointment of Chief Executive, Head of Paid Service, Returning Officer and Electoral Registration Officer**

#### **Report of Assistant Director Human Resources**

This report is public

#### **Purpose of report**

To seek Council approval of the recommendations of the Personnel Committee that Gordon Stewart be appointed to the posts of Chief Executive, Head of Paid Service, Returning Officer and Electoral Registration Officer with effect 8 January 2024.

#### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To agree the recommendation of the Personnel Committee that Gordon Stewart be appointed Chief Executive from 8 January 2024.
- 1.2 To agree the recommendation of the Personnel Committee that Gordon Stewart 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 8 January 2024.
- 1.3 To agree that, in accordance with Section 8 of the Representation of the People Act 1983 and all related legislation, Gordon Stewart be appointed as Electoral Registration Officer for Cherwell District Council from 8 January 2024.
- 1.4 To agree that, in accordance with Section 35 of the Representation of the People Act 1983 and all related legislation Gordon Stewart be appointed as Returning Officer for Cherwell District Council with authority to act in that capacity for elections to the District Council and all parish and town councils within the area of the Cherwell district from 8 January 2024.
- 1.5 To agree that Gordon Stewart also be appointed or authorised to act in respect of all related electoral, polling or referendum duties, including in relation to County Council elections, 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 8 January 2024.

- 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 by Council for local elections, or the relevant scale of fees prescribed by a Fees Order in respect of national or regional 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 Council, 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 Council notes its duty to provide support to the Electoral Registration Officer and Returning Officer

## **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 Chief Executive for Cherwell District 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 Yvonne Rees that she would be standing down as Chief Executive, the Assistant Director Human Resources was tasked with leading on the recruitment to the role. In November 2023, the Personnel Committee met on three separate occasions to consider potential candidates culminating in the selection of their preferred candidate on 27 November 2023.

### **3.0 Report Details**

- 3.1 Following Yvonne Ree's announcement of her intent to leave Cherwell District Council, a robust recruitment process commenced. This was led by the Assistant Director Human Resources with Penna, an independent external recruitment consultant.
- 3.2 On 20 October 2023 the four Group Leaders reviewed the applications and agreed the long list of candidates to complete assessment and interview with Penna.
- 3.3 On 1 November 2023, the Personnel Committee considered the shortlisted applicants, including analysis from Penna and agreed the candidates to proceed to interview by the Committee. The Committee then held interviews on 20 and 27 November 2023.
- 3.4 The Committee selected Gordon Stewart as the preferred candidate. Gordon Stewart has a range of experience in senior leadership in complex delivery environments across industry, the public sector, and the Higher Education and charity sectors. His most recent role being the Chief Operating Officer for The Institute of Cancer Research.

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

- 3.5 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:

- i. Draw up a statement specifying
    - a) the duties of the officer concerned; and
    - b) any qualifications or qualities to be sought in the person to be appointed
  - ii. 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.
  - iii. make arrangements for a copy of the statement mentioned in "i" to be sent to any person on request
  - iv. In the case of Head of paid Service and Corporate Directors, interview all applicants (or, if appropriate, shortlist for interview) via a Committee or Sub-Committee of the Council (this rests with the Personnel Committee).
- 3.9 Based on the information provided by the Assistant Director Human Resources and the council's recruitment consultants, the Monitoring Officer can 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.
- 3.12 The Head of Paid Service will appoint a deputy when appointed.

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

- 3.13 Cherwell District Council has 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 Council. In carrying out each role the Officer concerned is accountable to their statutory responsibility, not to the council that is 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 council has 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.
- 3.19 The Returning Officer when appointed will appoint their Deputy Returning Officer(s) and Deputy Electoral Registration Officer(s). The current Deputies are Shiraz Sheikh and Natasha Clark.

## **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 Gordon Stewart.

## **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 was notified on 27 November 2023 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 Alternative Options and Reasons for Rejection**

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to appoint Gordon Stewart and to make an alternative recommendation. This is not recommended by the Personnel Committee, as Gordon Stewart has been selected as the preferred candidate following the recruitment process.

## **7.0 Implications**

### **Financial and Resource Implications**

7.1 The costs of employing a 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. The insurance provisions required in recommendation 1.8 are also in place.

Comments checked by:

Michael Furness, Assistant Director Finance, [michael.furness@cherwell-dc.gov.uk](mailto:michael.furness@cherwell-dc.gov.uk)

### **Legal Implications**

7.2 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.

7.3 The Council's Officer Employment Procedure Rules at Part 20 of the Constitution set out the procedures to be followed for the appointment of chief officers, including the notification process to ensure that the Leader and any other Executive Members have no objections to the offer of appointment which must occur before an offer of appointment is made.

7.4 In addition, the Rules specifically provide that where the Personnel Committee is discharging the function of the appointment of the Head of Paid Service, that Committee must include at least one Member of Executive.

- 7.5 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.

Comments checked by:

Shiraz Sheikh, Assistant Director Law and Governance and Monitoring Officer, [shiraz.sheikh@cherwell-dc.gov.uk](mailto:shiraz.sheikh@cherwell-dc.gov.uk)

### **Risk Implications**

- 7.6 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

Comments checked by:

Shona Ware, Assistant Director Customer Focus, [shona.ware@cherwell-dc.gov.uk](mailto:shona.ware@cherwell-dc.gov.uk)

### **Equalities and Inclusion Implications**

- 7.7 The recruitment process was carried out in accordance with Council's staff employment rules.

Comments checked by:

Shona Ware, Assistant Director Customer Focus, [shona.ware@cherwell-dc.gov.uk](mailto:shona.ware@cherwell-dc.gov.uk)

### **Sustainability Implications**

- 7.8 There are no sustainability implications arising from this report.

Comments checked by:

Jo Miskin, Climate Action Manager, [jo.miskin@cherwell-dc.gov.uk](mailto:jo.miskin@cherwell-dc.gov.uk)

## **8.0 Decision Information**

### **Key Decision**

**Financial Threshold Met:** N/A

**Community Impact Threshold Met:** N/A

### **Wards Affected**

None directly

## **Links to Corporate Plan and Policy Framework**

N/A

## **Lead Councillor**

N/A

## **Document Information**

### **Appendix number and title**

- None

### **Background papers**

None

### **Report Author and contact details**

Claire Cox, Assistant Director Human Resources

[Claire.cox@cherwell-dc.gov.uk](mailto:Claire.cox@cherwell-dc.gov.uk)