

Notice of a public meeting of

Staffing Matters & Urgency Committee

- To:** Councillors Aspden (Chair), D'Agorne (Vice-Chair), Hook and D Myers
- Date:** Monday, 5 August 2019
- Time:** 5.30 pm
- Venue:** The King Richard III Room (GO49) - West Offices

AGENDA

1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. **Minutes** (Pages 1 - 4)

To approve and sign the minutes of the meeting of the Staffing Matters & Urgency Committee held on 1 July 2019.

3. **Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is on **Friday 2 August 2019 at 5.00pm**. Members of the public can speak on agenda items or matters within the remit of the committee.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

Filming, Recording or Webcasting Meetings

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>. or, if recorded, this will be uploaded onto the Council website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

4. Interim Cover for the Chief Executive (Pages 5 - 10)

This report asks Members to consider options for the provision of appropriate cover during the absence of the Chief Executive.

5. Customer & Corporate Services Restructure and Feedback from Appointments Sub-Committee (Pages 11 - 24)

This report provides an update on the review of the Corporate Services structure, together with feedback from the Appointments Sub-Committee set up to appoint to the post of Director of Governance and Improvement, and seeks approval for proposed revisions to the post.

6. Settlement Agreements and Non-Disclosure Clause (Pages 25 - 32)

This report seeks approval for a proposed process to give the committee assurance and oversight on the council's use of settlement agreements and the inclusion of a non disclosure clause therein.

7. Changes to Membership of Committees and Other Bodies (Pages 33 - 36)

This report seeks approval for amendments to the Council's appointments to committees and outside bodies.

8. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer

Louise Cook

Contact details:

- Telephone – (01904) 551031
- Email - louise.cook@york.gov.uk

For more information about any of the following please contact the Democratic Services Officers responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

**Ta informacja może być dostarczona w twoim
własnym języku. (Polish)**

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Staffing Matters & Urgency Committee
Date	1 July 2019
Present	Councillors Aspden (Chair), Hook, Craghill (Substitute for Cllr D'Agorne) and Perrett (Substitute for Cllr Myers)
Apologies	Councillors D'Agorne and Myers

8. Declarations of Interest

At this point in the meeting, Members were asked to declare if they had any personal interests not included on the Register of Interests or any prejudicial or disclosable pecuniary interests that they might have had in the business on the agenda. None were declared.

9. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the consideration of Annex A to Agenda Item 6 on the grounds that it contained information relating to an individual and the financial affairs of a particular person. This information is classed as exempt under Paragraphs 1, 2 and 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by the Local Government (Access to Information)(Variation) Order 2006).

10. Minutes

Resolved: That the minutes of the Staffing Matters and Urgency Committee held on 3 June 2019 be approved and then signed by the Chair as a correct record.

11. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

12. Changes to Membership of Committees and Other Bodies

Members noted that at the Annual Council meeting on 22 May 2019, appointments were made to committees, sub-committees and other bodies for the 2019/20 municipal year and that it was now necessary to make changes to the membership of committees and other bodies.

Members agreed that Staffing Matters & Urgency Committee had authority to deal with any in-year changes or appointments to any Committees and Outside Bodies and they noted the following proposed changes as detailed in the agenda papers:

Customer and Corporate Services Scrutiny Management Committee

To appoint Cllr Musson to replace Cllr Melly on this committee.

Health & Adult Social Care Policy & Scrutiny Committee

To appoint Cllr Melly to replace Cllr Musson on this committee.

West Yorkshire Combined Authority: Leeds City Region Partnership Committee

To appoint Cllr D'Agorne as substitute.

West Yorkshire Combined Authority: Overview and Scrutiny Committee

To appoint Cllr Douglas as substitute.

Resolved: That the above Committee and Outside Bodies membership changes be agreed.

Reason: In order to make appropriate appointments to the Council's Committees and Outside Bodies for the remainder of the current municipal year.

13. Redundancy

Members considered a report which detailed the expenditure associated with the proposed dismissal of one employee on the grounds of redundancy.

The HR Manager explained the background and detailed case surrounding the proposal, which was contained in the individual business case, attached as a confidential annex to the report.

Resolved: That the expenditure associated with the proposed dismissal of an employee on the grounds of redundancy, as detailed in Annex A of the report, be noted.

Reason: In order to provide Members with an overview of the expenditure.

Cllr Aspden, Chair
[The meeting started at 5.30pm and finished at 5.36pm].

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Staffing Matters & Urgency Committee**5 August 2019**

Report of the Head of Human Resources

Interim Cover for the Chief Executive**Summary**

1. This report provides options for SMU to consider the appropriate cover for the Chief Executive.

Background

2. The Chief Executive is currently too unwell to attend work.
3. The Council needs to continue to carry out its full functions and the Chief Executive role is key, as Head of Paid Service, in ensuring the delivery of the council's functions and in moving the council forward.
4. Whilst the period of absence is unknown, the Council needs to consider a more permanent interim arrangement. Since the absence commenced the Deputy Chief Executive (DCEX) has provided cover in his role as DCEX, however he is also the Section 151 Officer.
5. Whilst it is not illegal for one person to hold both statutory roles, it is not best practice and not recommended for any prolonged period.
6. Therefore a number of options are proposed for consideration below.

Options and Analysis for interim cover**Option 1**

7. The DCEX covers full duties of CEX including the statutory role of Head of Paid Service. In order to do this the Section 151 Officer role is removed and is given to the Deputy Section 151 Officer.
8. Within the constitution (Section 3D (3.1)) the Deputy Chief Executive is to provide cover for the Chief Executive and therefore we would be just

formalising this arrangement. The DCEX would retain the same title but also be Acting Head of Paid Service.

9. This would still result in one less full member at CMT and therefore the DCEX in consultation with the Leader, as appropriate, would need to consider the reporting lines and work out a suitable way forward during this interim period, as it is acknowledged that he would be unable to line manage all functions across Customer and Corporate Services and CMT.
10. To arrange for the Deputy Section 151 Officer to take on the full duties of the Section 151 Officer role during this interim period. A suitable salary supplement to be agreed to cover the additional responsibilities of the Section 151 Officer.
11. Financial implications of both options are around £3,106 per month, split as indicated in paragraph 12 and 13 below.
12. The DCEX should receive the difference between his pay and that of the first point of the Chief Executive Salary range, £137,971. The difference between the salaries is £2,408 per month. It is anticipated that the interim arrangements should be in place for at least 3 months.
13. The estimated cost of the additional duties of the Section 151 officer is estimated at £690 per month, based on spinal point within the Chief Officer pay grade, however full evaluation is required to finalise this figure. It is anticipated that the interim arrangements should be in place for at least 3 months.

Option 2

14. Along with the DCEX proposal as above detailed in paragraphs 7 to 9, consideration could be given to increase the Chief Officer establishment on a temporary basis to have an AD for Finance incorporating the Section 151 duties.
15. However this would require approval at Council as there is an increase in the establishment of Chief Officers, even if temporarily, and there would need to be an internal recruitment process which will take time. As Full Council is not until October we would be unable to progress this until then, which does not provide the interim arrangements that are required in a timely manner.
16. The cost of this option would be :
 - £2,408 per month for the DCEX and then a cost of an AD post,
 - Additional cost from grade 12 to AD estimated at £1,531 per month

- Backfill would be required within Finance estimated for the purpose of this report at a grade 10. £3,392 per month.

17. We would need to recruit internally for the AD position if approved.

Option 3

18. To advertise and recruit for an Interim Chief Executive on an initial 3 month contract, with the flexibility to extend.

19. This would retain the DCEX in his current role.

20. However to recruit for this is likely to take at least two months until someone is in post. There would be the cost of advertising and interviewing, estimated at around £5,000.

21. As it is an interim arrangement the cost per day is estimated at £1,000 including expenses. This on average per month based on 21 working days would cost the authority £21,000.

Consultation

22. No formal consultation has taken place, once a decision on a preferred option is established then consultation with key individuals will be taken forward, including the Trade Unions.

Council Plan

23. Making an appointment to this post will contribute to delivering the Council Plan and its priorities.

Implications

24. The following implications have been considered:

- **Financial** – The cost of each option is detailed above.
- **Human Resources (HR)** – Temporary changes to contracts will be needed in options 1 and 2, therefore the necessary process will be followed. Option 2 would require recruitment to the post.
- **Equalities** - There are no equalities implications.
- **Legal** – Internal appointments into statutory positions can be done without the need for an appointments sub-committee and can be sanctioned by SMU. There is no requirement to go through to full council.
- **Crime and Disorder** – There are not crime and disorder implications.

- **Information Technology (IT)** – There are no IT implications.
- **Property** – There are no property implications.
- **Other** – There are no other implications.

Risk Management

25. There is a risk to the Authority of not separating out the statutory functions of the Section 151 and Head of Paid Service which could impact upon the effective delivery of services to the residents of York.

Recommendations

26. It is recommended that SMU

- a) Agree to option 1 and remove Section 151 from his remit and allocate the Head of Paid Service.
- b) Agree to pay the additional supplement for covering the CEX/Head of Paid Service functions as described above.
- c) Allocate the Section 151 Officer to the Deputy Section 151 Officer.
- d) Agree to pay the additional allowance to cover this statutory function.
- e) Review the interim arrangements in October.

Reason: To provide suitable cover in the absence of the Chief Executive.

Contact Details

Author:

Chief Officer Responsible for the report:

Trudy Forster

Head of HR

Tel: (01904) 553984

**Report
Approved**



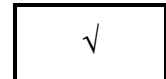
Date 22/7/19

Specialist Implications Officer(s)

None

Wards Affected: List wards or tick box to indicate all

All



For further information please contact the author of the report

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Staffing Matters & Urgency Committee**5 August 2019**

Report of the Head of Human Resources

Customer & Corporate Services Restructure and Feedback from Appointments Sub Committee**Summary**

1. This report provides an update to SMU after agreement to progress the CCS Restructure (December 2018) and approval to recruit to the Director of Governance & Improvement.
2. The report provides the committee with the outcome for the Appointments Sub Committee and seeks further approval to consider a revised role.
3. If the revised role is approved to progress then to retain the current Appointments Sub-Committee for Chief Officer Appointments as agreed in June 2019.

Customer and Corporate Services Structure**Background**

4. The review of the Corporate Service Structure, approved by Staffing Matters and Urgency in December 2018, saw the deletion of the post of Assistant Director Legal & Governance and the creation of a new post of Director of Governance and Improvement.
5. The formal restructure process concluded in March 2019, when Council agreed to the deletion of the AD Legal & Governance. The post holder left the organisation on 30 June 2019.
6. The structure could not be implemented until the post of Director of Legal and Governance was appointed and had commenced in the role.
7. Interim arrangements have been agreed through SMU to appoint an interim AD Legal & Governance to ensure that the statutory duty of Monitoring Officer is being carried out at the authority.

8. Whilst the recruitment for the permanent Director of Governance & Improvement was being carried out there was no change to the rest of the structure, and in effect the DCEX took on additional duties as the Interim AD Legal & Governance is part time and hence focusing on the legal and governance aspect of the role.
9. SMU in June agreed to establish a sub-committee to recruit to the post of Director of Governance & Improvement.

Appointment Sub Committee

10. The Appointments Sub Committee approved the advert and the recruitment and selection process for the Director of Governance and Improvement.
11. During the advertisement period, feedback from the market was clear that the role was atypical and it was unlikely that applicants would have the full range of experience and knowledge that was requested within the job description.
12. Whilst there were 18 applicants, the initial longlist identified that whilst candidates had experience in legal and governance they did not have the experience around customer and corporate improvement.
13. The appointments sub-committee took the decision not to progress with the selection process and to reconsider the role, after taking on board the feedback from the market.
14. The role has been reconfigured to focus on the legal and governance aspects of the role, keeping the main requirements of the agreed restructure in which the post would be part of CMT, report direct to the Chief Executive and be responsible for audit.
15. For this amended role to progress it is proposed that the rest of the structure in CCS remains as is until the Chief Executive considers the structure again.
16. To not progress with a revised Director of Governance role could leave the authority at risk of no monitoring officer, and hence it is recommended that the role is progressed.
17. This therefore means that the structure as agreed by SMU, shown in appendix 1, in December 2018, is now amended to reflect this unique situation.
18. The new amended structure, until the Chief Executive has the opportunity to reconsider, is shown in appendix 2.

19. The amended job description has been graded using the Hay Evaluation methodology in line with the Chief Officer Pay policy. This amended role has been graded as a Director and can be seen in appendix 3.

Consultation

20. Consultation has taken place with CMT, Appointments Sub Committee and the trade unions.

Options/Analysis

21. There are no alternative options for Members on the recruitment process to consider, other than simply not proceeding with the recruitment to the post and progressing an extension to the interim arrangements.

Council Plan

22. Making an appointment to this post will contribute to delivering the Council Plan and its priorities.

Implications

23. The following implications have been considered:

- **Financial** – The pay range for the post is within £87,623 - £97,149. The cost of the post and associated recruitment costs will be managed within existing departmental budgets.
- **Human Resources (HR)** – The job profile is based on the revised Job Description. The Appointments Committee is in line with the constitutional requirements for the recruitment and appointment of Chief Officers.
- **Equalities** - There are no equalities implications.
- **Legal** – The Appointments Committee is created pursuant to S.102 (1)(c) of the local Government Act 1972 and its terms of reference are to exercise the functions of the Council in relation to the selection and appointment of the successful applicant in respect of Chief Officer posts. The proceedings of the Appointments Committee are likely to be held mainly in exempt session due to the nature of the information that it will be considering.

The proposed distribution of seats meets the political balance requirements contained in the Local Government and Housing Act 1989.

The process of appointing officers of this level is regulated by the Local Authority (Standing Orders) (England) Regulations 2001. Amongst other things, these regulations require that an appointment committee must include at least one member of the Executive and further, that no formal offer of appointment may be made until all members of the Executive have been informed of the details of the intended appointee, and have raised no objection within the specified period, (usually 5 clear days).

- **Crime and Disorder** – There are not crime and disorder implications.
- **Information Technology (IT)** – There are no IT implications.
- **Property** – There are no property implications.
- **Other** – There are no other implications.

Risk Management

24. The risk of no or delayed appointment could risk delivery against the Council Plan and its priorities.

Recommendations

24. It is recommended that Staffing Matters & Urgency Committee:
- a) Approve the filling of the revised post and remuneration package for the Director post at a job evaluated salary of **£87,623 - £97,149**.
 - b) Agree to retain the existing membership already established for the Appointments Sub-Committee in relation to this post.

Reason: To ensure that the revised role is filled and to mitigate any risk of having no Monitoring Officer.

Contact Details

Author:

Trudy Forster, Head of HR

Tel: (01904) 553984

**Report
Approved**



Date 22/7/19

Specialist Implications Officer(s)

Human Resources: Trudy Forster, Head of HR

Wards Affected: List wards or tick box to indicate all

All



For further information please contact the author of the report

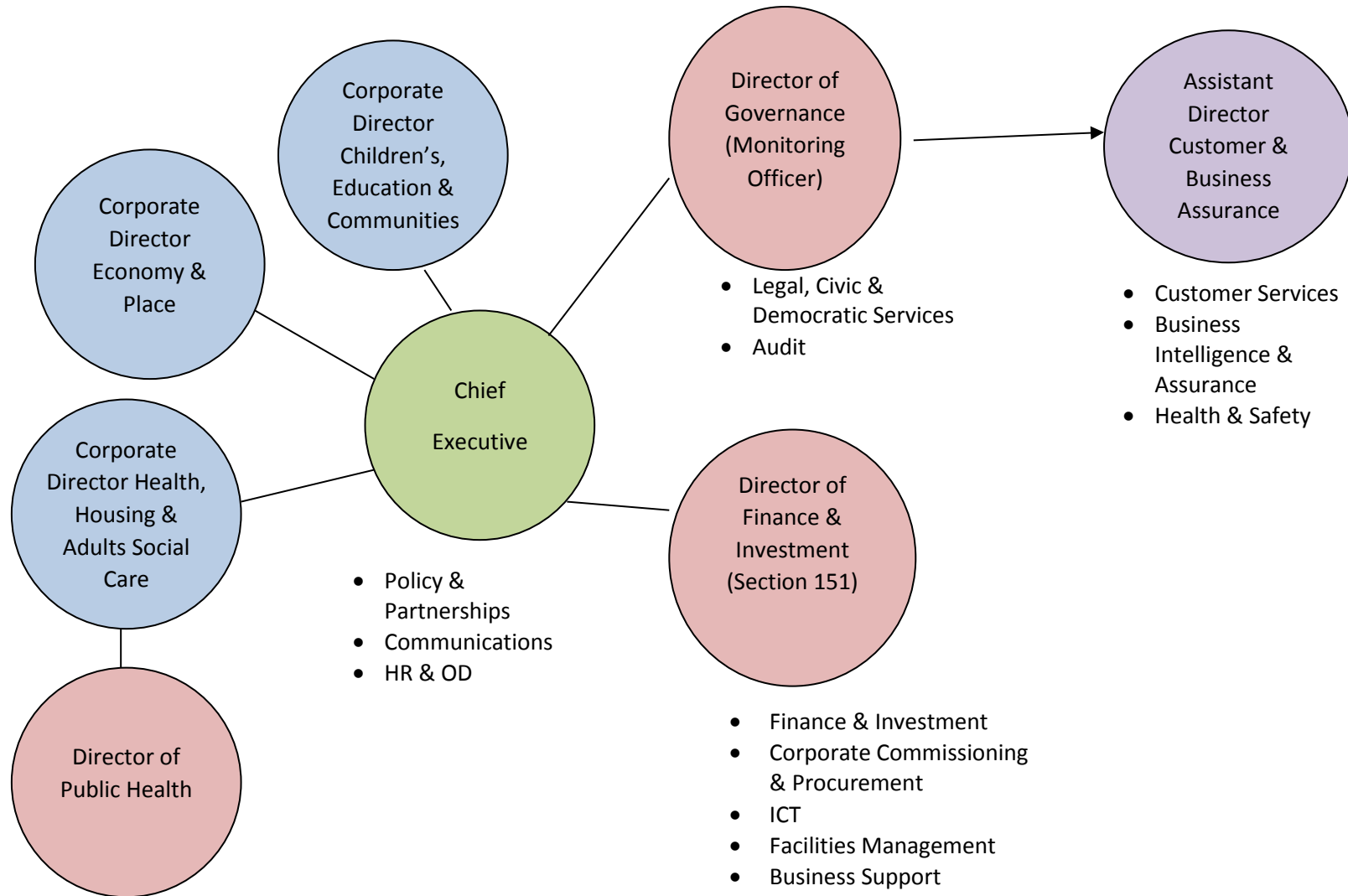
Appendices:

1. Structure as agreed by SMU December 18
2. Amended Structure to reflect current situation August 19
3. Amended Job Description Director of Governance

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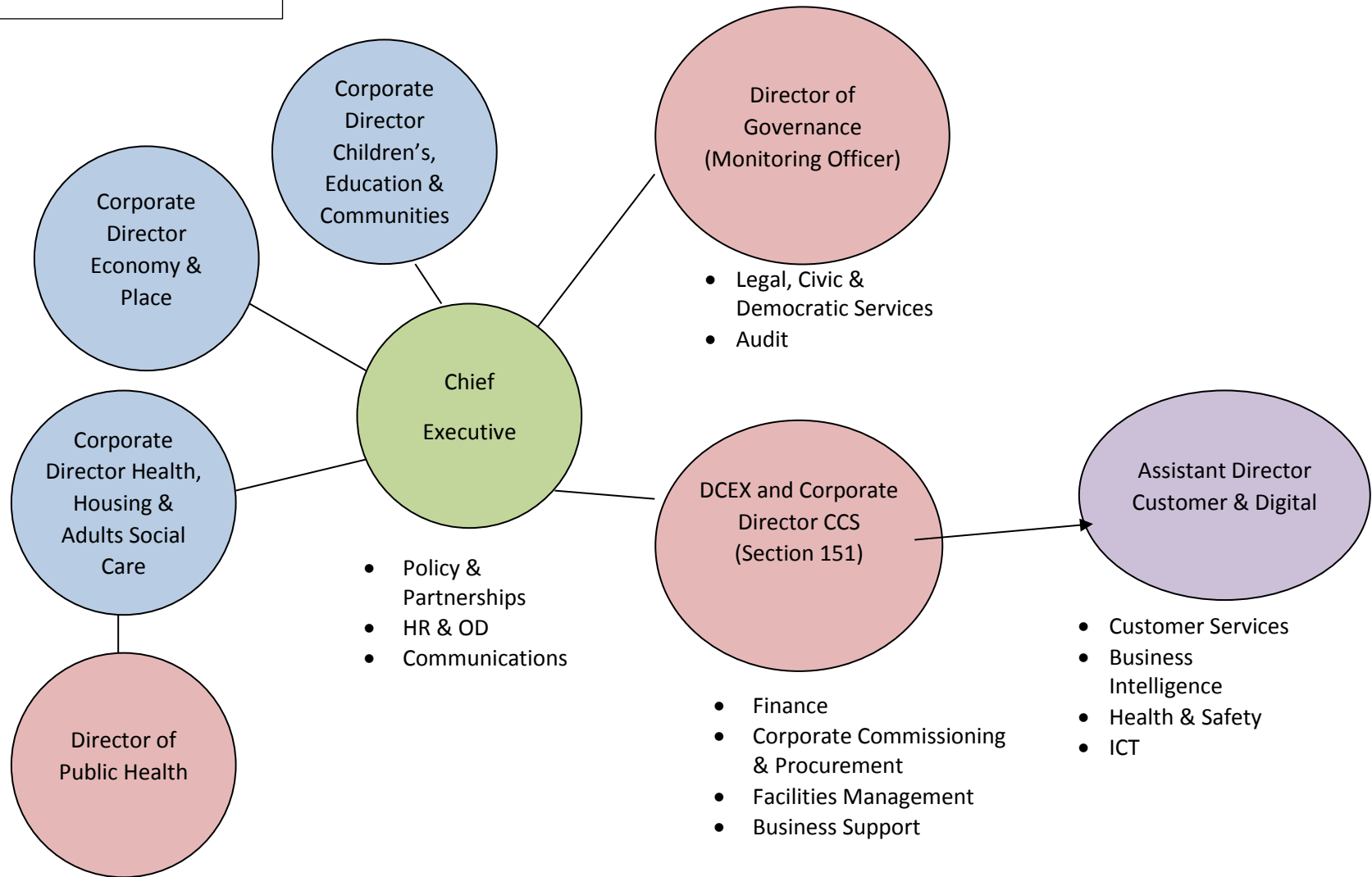
CCS Structure Agreed by SMU in December 2018

Appendix 1



Amended CCS Structure proposed
August 2019

Appendix 2





D I R E C T O R R O L E P R O F I L E

JOB TITLE: Director – Governance

DIRECTORATE: Corporate Services

REPORTS TO: Chief Executive

DATE: July 2019

1 PURPOSE OF YOUR JOB

To provide strategic leadership and support to members and officers to enable effective decision making and ensure transparency and compliance across the council by championing good governance. To work with the Councils Executive to ensure the achievements of the corporate objectives and the needs of the council are met. To be the guardian of the Council's constitution and democratic process.

To work collaboratively with other partners in the wider city and region governance systems. To ensure robust and transparent governance arrangements for the Council and to maximise the opportunities for residents and communities.

To support the Chief Executive in the corporate and strategic management of the Council.

2 DIMENSIONS

Total Budget:	£ 17m
People:	c 44 fte
Premises:	as per portfolio
Equipment:	as per portfolio
Projects:	as per portfolio

3 PRINCIPAL ACCOUNTABILITIES

Strategic

- Scans and understands the external and political environment in which the Council operates and takes lead responsibility for ensuring that the strategic plans of the Directorate and the whole organisation meets the needs of the current administration.
- To ensure that members and officers are aware of their roles and provide the necessary training and development to ensure consistency and quality of decision making.
- To ensure that elected Members are fully aware of strategic plans and that they are positively, pro-actively and appropriately engaged in the portfolio.
- To support executive members in policy formation, development and providing briefings in their respective portfolio areas.
- To support the Council and Chief Executive in the corporate management of the Council. Lead, plan and deliver the Council's corporate priorities including existing and new legal responsibilities and functions conferred upon the council.
- As a member of the Corporate Management Team, actively contributes to the strategic management of the Council to ensure achievement of corporate aims and objectives.
- Pro-actively seeks opportunities to represent the organisation at high levels with stakeholders across the Yorkshire Region and nationally, where applicable.
- Contributes to the development, articulation and communication of a clear vision for co-ordinated services across York, and provides a framework to ensure an effective and shared programme of joined up service delivery with key partners.
- To lead the formulation and application of strategy for the portfolio within the context of the overall CYC Council plan
- Makes decisions critical to the organisation's success in respect of the wider City of York agenda and the specific portfolio responsibility
- Takes lead responsibility for seeking opportunities to develop the revenue of CYC through partnerships, new ventures and delivers activity that supports revenue and ensures growth.

Business operations

- Lead the governance framework and the Council's decision making process to ensure effective and timely decisions are made in accordance with the law and the Council Constitution.
- To perform the statutory Monitoring role and functions for the Council.
- To work in partnership with Members and the Chief Executive to provide effective policy development and implementation to support the decision making processes of the Council.
- To review, interpret and report new and revised legislation, guidance and practice and recommend appropriate action and policy development.
- To ensure governance models either internally or externally are robust and transparent for the Council and proactively develop new approaches to ensure the Council maximises the best opportunities for residents and communities.
- Strategically develop a Member leadership development programme to support members in their community and council leadership.
- Responsibility for the strategic lead of Audit functions and arrangements for the Council. Providing assurance through the council's committee structure as required.
- To co-commission with the Section 151 Officer to implement the councils audit plan and provide relevant assurance through effective monitoring.
- Encourage innovation, creativity and support improvement through development, learning, best practice and celebrating success.
- To support the Chief Executive in the corporate and strategic management of the Council as a member of the Corporate Management Team to develop, deliver and monitor the Councils strategies, objectives and priorities.
- To work with the Chief Executive and Members to provide corporate leadership , vision and strategic direction of the Council, encouraging joined up work ing across all Directorates and leading by example.
- To take the lead on strategic cross cutting themes, initiatives or projects across the Council.
- Strategic responsibility for the civic function and supporting the Lord Mayor and civic party.
- Compliance with the statutory requirement of information and data and investigate and deal with complaints ensuring they are dealt with systematically and used to drive improvement.
- To support the Chief Executive in the conduct and management of elections and the delivery of the election registration process.
- Responsibility for the Councils performance and assurance framework.

Partnership

- Identifies key stakeholders and develops an engagement plan that ensures that CYC is engaging appropriately to deliver improved partnerships and, consequently, service outcomes.
- Identifies and supports new governance arrangements and activities that support the Council in achieving its priorities.
- Pro-actively seeks opportunities to represent the organisation at high levels with stakeholders across the Yorkshire Region and nationally, where applicable
- Leads the development and sustainability of collaborative working arrangements internally within CYC and with partner organisations and where appropriate commissioning, to agree strategic priorities and ensure integrated and cost effective service design and provision.
- Responsible for building and strengthening the relationship between members and officers.
- To maintain positive and effective working relationships with elected Members of the Council to ensure effective communication, engagement and leadership of the Council.
- Responsible for the development and training of all elected members to support them in carrying out their role on behalf of the electorate.

People Leadership and Management

- Ensures that all members of the portfolio team are aware of the requirements of their role and how that contributes to the success of CYC and how it benefits the residents of CYC
- Takes personal responsibility for identifying and nurturing talent from across the whole organisation and at every level within the organisation and ensures that people with potential are pro-actively supported to deploy their talent and progress to the benefit of CYC
- Leads individuals and teams through change, ensuring that service is protected and people are actively engaged in the seeking of, developing of and delivering of change initiatives which add value to CYC performance and service
- Ensures that each member of the team have clear annual targets and have the resources available to deliver
- Ensures the performance management of the team and individuals within it are effectively and continuously managed and that underperformance is dealt with positively and robustly

- Ensures that all people resources add value to the organisation and the City and that structures are clear, efficient and well targeted

Programme and Project Management

- Is responsible for sponsoring and delivering complex programmes of work that improve performance of CYC and delivers exceptional service to residents and partners
- Takes lead responsibility for identifying, sponsoring and ensuring the delivery of performance improvement projects
- Accountable for ensuring project delivers sustainable results for the benefit of the organisation and the City of York

Equality and Diversity

- Takes lead responsibility for equality, diversity and fairness issues
- Takes personal responsibility for ensuring that all services, employees and service users are treated with dignity and respect
- Ensures that the service portfolio is inclusive for all users and is flexible to meet the diverse needs of service users

4 KNOWLEDGE SKILLS AND EXPERIENCE

Knowledge

- Knowledge and understanding of local government
- A degree level qualification and/or professional managerial qualification (such as qualified lawyer or equivalent) or equivalent;
- Understanding of organisation structure, operations, decision making channels, planning processes and systems and the ability to identify opportunities for improvement
- Understanding of collaboration with partners and the governance arrangements needed to ensure the council is protected.

Skills

- Ability to successfully develop and deliver strategies to meet organisation objectives and achieve planned results in a complex multi-functional organisation;
- Ability to manage large and complex budgets with an emphasis on value for money and efficiencies
- Highly effective leadership and motivational skills and behaviours that develop and inspire others, promote high standards and collaborative working amongst internal and external stakeholders;
- Outstanding interpersonal, negotiating and commissioning skills;

- Excellent verbal and written communication skills that are persuasive, informative and effectively engage the interests of a wide range of audiences;
- IT skills and the ability to fully exploit access to modern Information technology;
- Highly developed skills in numeracy and budget management;
- Corporate and service planning skills that ensure effective resource management, service delivery, best value and continuous improvement;
- Analytical skills that contribute effectively to the identification of development and trends, prioritisation and problem solving.
- Ability to keep equality of opportunity and diversity at the heart of all strategic management and operational activity
- Ability to advise, influence, persuade, command confidence and act assertively in a political environment with all key partners, internal and external, including members.

Experience

- A successful track record of achievement in a senior management role
- Substantial record of achievement in successfully managing change and large-scale projects;
- Significant experience of successfully motivating, managing, persuading and leading staff;
- Wide experience of successful inter-agency working and demonstrable success in developing effective collaborative working with a range of stakeholders to achieve objectives;
- Experience of significantly improving service delivery;
- Evidence of decision making based on sound risk management principles and contingency planning, which comply with the Council Procedures and processes
- Experience of managing performance within a complex environment where there is constant challenge and change
- Experience of negotiating significant contracts, commissioning services and monitoring provision
- Experience of working in a political environment.
- Experience of advising elected members at all levels.

5 Statutory or specialist knowledge, skills and/or experience required

- Senior experience in providing high level legal advice to a large and complex organisation
- Thorough understanding of the legal framework that local authorities operate within
- Knowledge and experience of the democratic process within local government

6 Portfolio

The service areas responsible by this post holder include the following:

- Legal Services including Complaints, FOIs and Official correspondence
- Civic and Democratic services
- Elections
- Audit Services



Staffing Matters & Urgency Committee

5 August 2019

Report of the Director of Customer & Corporate Services

Settlement Agreements and Non Disclosure Clause

Summary

1. This report provides SMU with the process in which they will be given assurance and oversight of the council's activity on settlement agreements and the inclusion of a non disclosure clause within.

Background

2. Audit & Governance Committee in March 2018 considered the council's use of settlement agreements and a non disclosure clause.
3. It was agreed at Audit & Governance that the following recommendations be made:
 - 3.1 A system of Member oversight of proposed settlement agreements and non-disclosure clauses be introduced to ensure that expenditure of Council Tax payers' money is prudent and accountable;
 - 3.2 There should be a presumption against a non-disclosure unless a business case is presented that is viable and is then approved by Members (in a format to be decided); and
 - 3.3 A formalised process be implemented so that there is consultation with Members on proposed settlement agreements and that the Constitution be amended to reflect this.
4. In line with the above three actions, this report provides the process of Member oversight to be agreed, having consideration of the confidentiality of the settlement agreement and a need to know basis on who is involved.

CYC's Settlement Agreement Protocol

5. Settlement agreements are legally binding contracts which can be used to end the employment relationship on agreed terms. Their main feature is that they waive an employee's right to make a claim to a court or employment tribunal on the matters that are specifically covered in the agreement. Settlement agreements may be proposed prior to undertaking any other formal process. They usually include some form of payment to the employee and may also include a reference.
6. Settlement agreements are voluntary. Parties do not have to agree them or enter into discussions about them if they do not wish to do so. Equally the parties do not have to accept the terms initially proposed to them. There can be a process of negotiation during which both sides make proposals and counter proposals until an agreement is reached, or both parties recognise that no agreement is possible.
7. For a settlement agreement to be legally valid the following conditions must be met:
 - a The agreement must be in writing;
 - b The agreement must relate to a particular complaint or proceedings
 - c The employee must have received advice from a relevant independent adviser on the terms and effect of the proposed agreement and its effect on the employee's ability to pursue that complaint or proceedings before an employment tribunal;
 - d The independent adviser must have a current contract of insurance or professional indemnity insurance covering the risk of a claim by the employee in respect of loss arising from that advice;
 - e The agreement must identify the adviser;
 - f The agreement must state that the applicable statutory conditions regulating the settlement agreement have been satisfied.
8. Settlement agreements can be proposed by both CYC managers and employees. A settlement agreement proposal can be made at any stage of an employment relationship. How the proposal is made can vary depending on the circumstances but reasons for the proposal should be given when the proposal is made. The initial proposal may be oral although it must ultimately be put in writing.

9. The initial proposal should be considered by the Head of Service / Assistant Director, Legal, HR, and Finance. Where it is proposed to progress then the AD/Corporate Director should inform the Executive Member and gain approval from the Section 151 Officer. This will all be documented in the Settlement Agreement template, shown in Appendix 1.
10. Where the business case has been approved, as in paragraph 9 above, parties should be given a reasonable period of time to consider the proposed settlement agreement and a minimum period of 10 calendar days should be allowed to consider the proposed formal written terms of a settlement agreement and to receive independent advice, unless the parties agree otherwise.
11. Whilst not a legal requirement, CYC should allow employees to be accompanied at the meeting by a work colleague, trade union official or trade union representative.
12. Where a proposed settlement agreement based on the termination of the employment is accepted, the employee's employment can be terminated either with the required contractual notice or from the date specified in the agreement. The details of any payments due to the employee and their timing should be included in the agreement.
13. The Settlement Agreement Template will be sent to SMU for noting in line with redundancy decisions.
14. The use of a non disclosure clause within the settlement agreement may be used for the benefit of either CYC or the employee, but in general is included for the benefit of both parties. The clause is confidential and provides certainty and closer whilst affirming the right of either party to make a protected disclosure (i.e. whistleblowing).

Consultation

15. Legal services have been involved in formalising the protocol and template as detailed above. There is no change to process other than documenting the approval / decision making and enabling SMU to oversee the process to give assurance to the Council that they are being used appropriately.

Council Plan

16. Whilst the actions being proposed in the report are not material to the Council Plan they are consistent with the required outcomes of the Workforce Strategy (People Plan).

Implications

17. There are no implications for the process as described. Any implication of individual cases coming forward will be detailed in the Business case / approval document.

Risk Management

18. This approach manages the risk to the council and gives greater oversight and scrutiny whilst maintaining confidentiality in line with the settlement agreements.

Recommendations

19. It is recommended that SMU

- 19.1 Agree to the proposed reporting to SMU on settlement agreements used within the authority.

Reason: To provide assurance and oversight by Members, as agreed by Audit and Governance Committee.

Contact Details

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Chief Officer Responsible for the report:

Ian Floyd

Deputy Chief Executive / Director of
Customer & Corporate Services

**Report
Approved**

Date 23/7/19

Specialist Implications Officer(s)

None

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Annex:

1. Settlement Agreement - Business Case Template

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Business Case – Settlement Agreements

Briefly outline the circumstances of the request to provide a settlement agreement. This should be very brief.

Please provide full details of the settlement proposal, not named individuals

Directorate:

Department:

Reason:

Overall total cost of the settlement:

Total cost and breakdown :

Please provide details of alternative courses of action and advantages and disadvantages of each. For example the potential cost (and resource) of following internal process.

Non Disclosure Clause

If this is included is there anything additional to the norm ?

Business Case prepared by:

Name of Manager:

Date:

Directorate Sign Off : Assistant Director / Director	
To confirm date of discussion with Executive Member – Name and Date	
Name of Manager:	Date:
HR Comments:	
Name:	Date:
Finance Comments	
Name: ...	Date:
Legal Comments	
Name: ...	Date:
Date submitted to Section 151 Officer :	
Business case approved/not approved on	



Staffing Matters and Urgency Committee

5 August 2019

Report of the Interim Assistant Director of Legal and Governance

Changes to Membership of Committees, Joint Committees administered by other Councils, Regional Local Authority Bodies and Other Bodies

Summary

1. At the Annual Council meeting on 22 May 2019, appointments were made to Committees, Sub-Committees and Outside Bodies for the 2019/20 municipal year. Further changes are now required to the membership of committees, as set out below.

Background

2. Further to the appointments to Committees etc. made at the Annual Meeting, Staffing Matters & Urgency Committee has authority to deal with any in-year changes or appointments to any Committees and Outside Bodies and the following changes are put forward for consideration.

Migration Yorkshire Board

To appoint Councillor Smalley onto this Board and remove him from the Yorkshire and Humber Strategic Migration Group.

York Business Improvement District (BID) Board

That the representation on the York BID Board be amended to one place to Lib Dem and one place to the Green political group and confirmed as follows:

To appoint Councillor D'Agorne to replace Councillor Douglas on the Board and for clarification Cllr Waller to remain on the Board.

York Learning Improvement Board

To appoint Cllr Daubeney as Chair of this newly-established Board.

Consultation

3. Normal processes to consult the relevant political Group have been applied to ensure the Group nominates the Members of their choice. No other consultation is specifically required in this instance.

Options

4. There are no alternative options available as this is simply for the Groups concerned to nominate appropriate candidates to either replace the Member concerned or to fill the position that has become available. This Committee will then consider and determine those nominations.

Council Plan

5. Maintaining an appropriate decision making and scrutiny structure and appointees to that contribute to the Council delivering its core priorities set out in the current Council Plan, effectively.

Implications

6. There are no known implications in relation to the following in terms of dealing with the specific matter before Members:
 - Financial
 - Human Resources (HR)
 - Equalities
 - Crime and Disorder
 - Property
 - Other

Legal Implications

7. The Council is statutorily obliged to make appointments to committees, advisory committees, Sub Committees and certain other prescribed bodies in accordance with the political balance rules. These rules may only be waived where no Member votes against the proposal.

Risk Management

8. In compliance with the Council's risk management strategy, there are no known risks associated with the recommendation in this report.

Recommendations

- 9. Staffing Matters and Urgency Committee is asked to consider and approve the changes to committee and outside body appointments as outlined in paragraph 2 of the report approve.

Reason: In order to make appropriate appointments to the Council's Committees and Outside Bodies for the remainder of the current municipal year.

Contact Details

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Suzan Harrington
Interim Assistant Director of Legal and Governance

Report **Date** 25 July 2019

Specialist Implications Officers
Not applicable

Wards Affected: All

For further information please contact the author of the report

Background Papers:
None

Annexes:
None

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