

Name of Committee:	Council
Date of Meeting:	<b>06/12/2021</b>
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	<b>Update on Proposed Senior Leadership Team (SLT) Restructuring</b>
Purpose of Report:	Outcome of staff consultation on Senior Executive Leadership Team Restructure together with asking the Council to consider and approve arrangements for the re-designation of the statutory role of Returning Officer and associated role of Electoral Registration Officer
Report Owner:	Executive Leader and Cabinet Member Performance and Resources
Responsible Officer:	Laithe Bonni, Operational Manager HR Employee Services
Elected Member and Officer Consultation:	This report does not require consultation to be undertaken
Policy Framework:	To ask the Council to note the results of the consultation process. Decisions regarding changes to officer structures will be decisions of the Council.
Executive Summary:	<p>To report the results of consultation carried out amongst Council staff about proposed changes to officer structures.</p> <p>To redesignate the Council's Returning Officer and Electoral Registration Officer (in line with the provisions under the Representation of the People's Act 1983, as amended)</p>

## **1. Recommendation**

- 1.1** That Council notes the outcome of recent consultation amongst Council staff on proposals for changes to the structure of the Council's Senior Executive Leadership Team.
- 1.2** That the Council's Managing Director be designated as the Council's Returning Officer alongside the associated role of the Council's Electoral Registration Officer with effect from 7th December 2021, and the duties will continue when the post title changes to the Chief Executive.
- 1.3** That the Council's Constitution is amended to reflect the re-designation of the roles as set out above

## **2. Reasons for Recommendations**

- 2.1** To enable Council to be aware of the outcome of the staff consultation.
- 2.2** To comply with the statutory requirements of the Representation of the People Acts 1983, 1985 and 2000 (as amended).
- 2.3** To ensure the Constitution reflects the change in statutory designation

## **3. Background**

- 3.1** The Head of Human Resources and Organisational Development in conjunction with the Leader commissioned a review of the Council's senior management arrangements. This was authorised by the Cabinet on 12 May 2021 and was considered necessary in the light of new legislation, the strategic demands of the Corporate Plan 2020-2025 and learning from the delivery of services during the pandemic.
- 3.2** A report of the review was considered by Cabinet on 13 September 2021 and by Council at a Special Council meeting held on 28 September 2021. The Council noted the proposed consultation process and implementation timetable.

## **4. Key Issues for Consideration**

- 4.1** The Council commenced a 30 day staff consultation process on 8 October 2021, seeking views on the proposed restructure of the Senior Executive Leadership Team and concluded this on 8 November 2021.
- 4.2** The proposed restructure would involve:
  - a) Deletion/redesignation of the post of Managing Director.
  - b) Creation of the post of Chief Executive.
  - c) Creation of the post of Director of Corporate Resources.

d) Creation of the post of Director of Place

**4.3** This report notes issues that arose in the consultation process and the Council's response. The key points raised in the responses were as follows:

a) Recognition of, and support for, the need for sufficient strategic capacity within the Senior Executive Leadership Team structure which will be met by the creation of the two new director posts.

b) Support for the redesignation of the Managing Director Post to Chief Executive.

c) Clarity in relation to the position and reporting lines in relation to the Section 151 and Monitoring Officers within the SLT structure.

d) Clarity in relation to the structure of the tiers below director level.

e) Value for money considerations in relation to the two new director posts in the context of costs and resourcing pressures faced by the Council.

f) Considerations regarding the Chief Executive becoming the Council's Returning Officer and Electoral Registration Officer and the fact that no payment will be made to the Chief Executive in relation to the performance of those functions

#### **Matters Arising from the Consultation**

Position of the Section 151 and Monitoring Officer

**4.4** Confirmation that these posts will be part of the Senior Executive Leadership Team was needed. Reference was made in consultation responses to the fact that this was recommended best practice by CIPFA and would be good governance for the Council.

**4.5** The Council can confirm that the Section 151 Officer and the Monitoring Officer will be part of the Senior Executive Leadership Team and will report directly to the Chief Executive on section 151 issues and Monitoring Officer issues. The Council recognises that it is important that these officers have positions in the Council, which enable them to discharge their statutory duties effectively, so inclusion in the Senior Executive Leadership Team would be appropriate.

**4.6** The Council also recognises that the Section 151 Officer and the Monitoring Officer have personal duties and will not be subject to supervision by other officers in the discharge of those duties.

## Cost and value for money considerations

- 4.7** It was queried whether it was appropriate to introduce these additional posts (and associated costs) at a time when costs pressures and projected budget shortfalls exist elsewhere in the Council.
- 4.8** The Report on the Review of the Senior Executive Leadership Team Structure (the “Report”) acknowledges, as do a number of the staff consultation responses, that there are strains and tensions in the organisation’s design and structural arrangements which could have an impact on operational service delivery. This is particularly highlighted in relation to the role of the Managing Director who is consistently drawn into management issues rather than being able to concentrate time and effort on the strategic and externally focused agendas. The Report concluded that “the opportunities for growth and partnership working cannot realistically be met from the current leadership structure”
- 4.9** The Council acknowledges that the creation of the two new director posts will carry additional financial burden on the Medium-Term Financial Plan and it mindful of the cost and resource pressures that some departments within the Council are under which have been highlighted by the staff consultation responses. Nevertheless, the Council considers that this is an important investment which it necessary to ensure
- a) The effective delivery of the Council’s Corporate Plan 2020 – 2025.
  - b) Ensuring that the SLT is appropriate in terms of structure, capacity and capability to deliver the Council’s priorities.
  - c) Future proofing the organisation, building resilience and succession into the organisation.
  - d) Ensuring the Council is best placed to maximise the opportunities from Corporate Joint Committees and wider Welsh Government priorities and funding.
- 4.10** As for whether the restructure would result in two tiers of directors if the exercise results in a higher salary for the new posts. The Council confirms that the costings in relation to the two new director posts have been based upon the current Council salary bands for director roles and the intention is that the salaries offered to the new directors will be within these bands. As such, it is not envisaged that a two-tier salary structure will result from the introduction of the two new director roles.
- 4.11** Clarification was requested as to whether the costs of PA support or similar attached to the two new posts has been factored into the cost projections. The Council confirms that the costs projection does not include the provision of additional PA/admin support for the new director posts. Once in post, the new

directors will have the opportunity to review the existing PA/admin support provision and to determine whether it is appropriate.

Next tier structures below directors

- 4.12** A number of consultation responses refer to uncertainty in relation to the tiers below director level, and request confirmation in relation to the proposed structure. There is also a suggestion that additional capacity should be created in the tiers below director level, to ensure that every opportunity is maximised.
- 4.13** With regard to requested confirmation of the proposed new structure below director level, the Report indicates that the new directors, once in post, will review their next tier structures to ensure the appropriate fit and focus given the strategic agenda.
- 4.14** The Council considers that this is the appropriate approach. The Council recognises that this may result in some uncertainty for staff in the short-term. The recommended organisation design included at Appendix 5 to the original report gave an idea in relation to the departments which would fall under the remit of the new directors, albeit without reference to the structure for third tier posts. The Council considers that the new directors will be best placed to determine where additional capacity may be created to ensure that the strategic objectives are met.
- 4.15** Appendix 5 to the original report to Council merely set out the SLT structure including the new director posts. It did not include the structure for third tier posts. Should any further restructuring of job titles and roles be required in the tiers below director level these will be considered and a due process following in relation to any proposed changes, in due course.
- 4.16** The Council can confirm therefore that there will be no changes to existing job titles and roles in the short-term. Pending the review by the new directors and any proposed changes in due course.
- 4.17** As to whether the Report to Cabinet is based upon a wider report and the suggestion that wider discussions with staff were not properly reflected within the Report.
- 4.18** The Council can confirm that the Report to Cabinet was the final Report produced by Steve James, the Independent HR Consultant. It is not based on a wider report. Steve James did engage in wider discussions with staff as part of the review and the key findings resulting from those discussions are captured in the Report.
- 4.19** As is noted in the Report, the recommendations made are limited to the changes to Senior Executive Leadership Team at director level, they do not include any possible future change at levels below this.

**4.20** As for whether the new director roles could be filled internally, potentially on a temporary basis. The Council recognises that it will need to maintain the balance between resourcing current service delivery, backfilling services where the pandemic has reconfigured service priorities as well as investing in the future. As was stated in the Report “the need to triangulate these priorities was consistently raised throughout the review and at levels of the organisation consulted”. The Council therefore considers that discussions with staff were reflected within the Report and are considerations that the Council is mindful of going forward.

Returning Officer and Electoral Registration Officer

**4.21** The Council recognises the work and responsibility involved with these roles and recognises that the ceasing of current arrangements for electoral duties would result in a shift of these responsibilities to the Chief Executive. The Council considers however that at a corporate level is it appropriate that the Chief Executive assumes these roles. It is noted however that specific responsibilities relating to the running of elections will be delegated as appropriate.

**4.22** As for the fact that it is stated that the Chief Executive will not receive additional remuneration in respect of becoming the Council’s Returning Officer and Electoral Registration Officer, the Council confirms that legislation does not prevent a Returning Officer from being paid.

**4.23** Section 29(3) of the Representation of the People Act 1983 says

“(3) Subject to section 29A, a returning officer shall be entitled to recover his charges in respect of services rendered, or expenses incurred, for or in connection with a parliamentary election if—

a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the election; and

b) the total of his charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, regulations made by the Commission, with the consent of the Treasury, for the purposes of this subsection”

There are similar provisions in other pieces of legislation for other types of elections

**4.24** In respect of local elections, previously section 36 of the Representation of the People Act 1983 included provisions relating to both England and Wales that said that expenditure incurred by a returning officer in relation to local elections shall not exceed the scale fixed by the relevant council. The Local Government and Elections (Wales) Act 2021 has inserted sections 36A, 36B and 36C specifically

about local elections in Wales, with 36C relating to the returning officer's expenditure, but these sections still make provision for expenditure of the Returning Officer not to exceed the scale set by the council.

- 4.25** The Report also refers to the fact that the Local Government and Elections (Wales) Act 2021 is silent on the issue of remuneration for the role of Electoral Registration Officer
- 4.26** Payments have been made in respect of recent elections on the basis of Welsh Grants. These grants are determined on the basis of a formula which takes into account a number of factors, including whether the election is contested and the number of votes cast. These grants will continue to be paid to the Council in respect of future elections and will be shared, as appropriate, with Council employees responsible for the conduct of those elections.
- 4.27** The Council agrees that it is sensible to deal with the redesignation of the Roles of Returning Officer and Electoral Registration Officer as soon as reasonably practicable and therefore specific recommendations on this are set out in this report.

## **5. Returning Officer and Electoral Registration Officer Issues for consideration**

- 5.1** Members will be aware that the Returning Officer role includes overall responsibility for the conduct of elections and is an appointment made in accordance with the Representation of the People Acts 1983, 1985 and 2000 (as amended).
- 5.2** Within this Council the role of Returning Officer is undertaken alongside the related role of Electoral Registration Officer (ERO). The main duty of the ERO is the creation and maintenance of the Register of Electors and similar tasks in relation to the Absent Voters List.
- 5.3** It is proposed that the Managing Director is formally designated as the Proper Officer for all Electoral Registration and Returning Officer functions on an ongoing basis from 7th December 2021.
- 5.4** The above designation will continue to include the undertaking of the role of:
- a) Returning Officer for local, community, parish and town council elections/referenda.
  - b) Acting Returning Officer for Parliamentary elections/referenda.
  - c) Constituency Returning Officer for Senedd Elections.
  - d) Local Returning Officer for Police and Crime Commissioner elections.
  - e) Electoral Registration Officer.
- 5.5** Responsibility for the above needs to be undertaken by the Managing Director for the reasons outlined in paragraphs 4.20 to 4.23 of the report. Such a role is

separate from an officer's duties as a local government officer and requires the undertaking of responsibilities of a personal nature and being directly accountable to the court as an independent statutory office holder.

- 5.6 On the basis of the above the allocation of responsibility to the Managing Director will not have implications for the post holder's current salary and terms and conditions.
- 5.7 Members will be aware that there is statutory provision for the Returning Officer to appoint a Deputy Returning Officer (or officers) as the need arises for each election, and without recourse to a separate decision by Council.
- 5.8 It is also good practice for an officer to be formally designated as Deputy Electoral Registration Officer. Such a decision would however need to be approved by Council. On this basis it is therefore proposed that in light of the timescales and redesignation of the statutory role of the Electoral Registration Officer to the Managing Director that the Managing Director appoint a Deputy Registration Officer, in line with legislation and guidance, under Emergency Powers.
- 5.9 As is the case with the ERO, there are no implications for the postholder's existing terms and conditions and the Deputy to be appointed will only provide cover when necessary in the absence of the ERO. Members will be advised that there are no fees attributable to the role and therefore no additional resource implications
- 5.10 For the above reason the arrangement does not invoke Regulation 9 of The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 and as such does not need to be subject to external advertisement. This is accordance with Schedule 1 of the Local Authorities (Standing Orders) (Wales) Regulations 2006.

## **6. Resources and Legal Considerations**

### **Financial**

- 6.1 There are no financial implications arising from the recommendations in this report.
- 6.2 The costs associated with any restructure of the Senior Leadership Team will be reported in reports on the restructure

### **Employment**

- 6.3 The results of the consultation will be taken into account as the Council takes forward the proposals for restructure of posts in its Senior Executive Leadership Team, including the redesignation of the Managing Director post as the post of Chief Executive.

### **Legal (Including Equalities)**

- 6.4** There was no statutory or general legal requirement for formal consultation in these circumstances, as no roles were at risk of redundancy but the Council decided to carry out consultation as a matter of good practice.
- 6.5** The principles of lawful consultation by public authorities require that a decision maker takes the outcome of consultation into account conscientiously when reaching a decision.
- 6.6** The Council considers that the consultation process and associated steps accord with the public sector equality duty.
- 6.7** There is currently no matter within this report that should be brought to the attention of the Council's Monitoring Officer.

## **7. Background Papers**

Cabinet Report 12 May 2021

Corporate Performance and Resources Scrutiny Committee 19 May 2021