

Agenda item:

Title of meeting: Employment Committee

Date of meeting: 15th September 2015

Subject: Definition of a Chief Officer at Portsmouth City Council

Report From: Director of HR, Legal & Procurement

Report by: Paddy May, Corporate Strategy Manager

Wards affected: N/A

Key decision: No

Full Council decision: No

1. Purpose of report

1.1. To seek approval from Members for a definition of what we mean by a Chief Officer employed by Portsmouth City Council.

2. Recommendations

2.1. It is recommended that Employment Committee notes that the outdated reference to SM2 in the delegations to the Employment Committee (section 2, part 2, para 3) be updated to a catch all definition of *Chief Officer*, which should be:

2.1.1. on the JNC terms and conditions, and

2.1.2. defined as one, or more, of the following:

- The Chief Executive
- The Deputy Chief Executive
- The S151 Officer
- A direct report to the Chief Executive (i.e. Port Manager; Director of Public Health; Director of Regulatory Services, Community Safety and Troubled Families; Director of Integrated Commissioning Unit; Director of Adult Services; and, Director of Children Services and Education)
- A direct report to the Deputy Chief Executive (i.e. Director of Housing and Property; Director of Transport, Environment and Business Support; Director of Culture and City Development; Director of Finance and Information Services (NB also S151 officer); Director of HR, Legal and Procurement; and, Director of Community and Communication)

3. Background

- 3.1. It is important that the organisation is clear about what constitutes a Chief Officer. Employment Committee have a role in terms of agreeing the structure of the organisation at Chief Officer level and the committee is also involved in the recruitment and dismissal processes for Chief Officers. It is therefore important that we are clear which officers these roles relate to. Chief Officers would also normally be on the Joint Negotiating Committee (JNC) terms and conditions which often, for example, have different pay settlements from staff on National Joint Council (NJC) contracts.
- 3.2. Currently Portsmouth City Council's delegations to its Employment Committee (constitution part, 2, section 2, para 3) to appoint and discipline staff makes reference to the SM2 grade. This is considered to be out of date, so a corrective definition of Chief Officer is sought. Currently it is accepted that a Chief Officer is someone who is at grade 16 or above. This was agreed following the Moving Towards Excellence review which created the posts of Strategic Directors (SDs) and Heads of Service (HoS). The HoS were all at Band 16 or Band 17 and reported directly to the SDs. This means that any appointment at Band 16 or above should be a member appointment and should be subject to the JNC terms and conditions of employment.
- 3.3. However posts such as the Deputy Section 151 Officer and the Troubled Families Coordinator are now Band 16 posts and this does create anomalies where, for example, members are involved in the appointment process for some, but not all, third tier officers. Similarly there are two Band 16 posts in the Port staffing structure that are not on JNC terms and conditions and therefore are not Chief Officers even though they meet the definition of being on Band 16 or above.
- 3.4. This report is therefore seeking to get approval for a definition of Chief Officer that will remove these anomalies. The Parliamentary Communities and Local Government Committee in their second report of the session on Chief Officers' remuneration stated that "*A Chief Officer is defined here as a local authority Chief Executive or a corporate director or a service head. Chief Officers' are defined here as those employed in Chief Executive, tier 1 and 2 roles. A tier 1 role is broadly one with strategic management responsibilities, often with statutory or constitutional duties, such as Director of Children's Services, monitoring officer or deputy head of paid service. In most cases tier 1 officers report directly to the Chief Executive. Tier 2 officers are usually operational managers such as heads of major functions, such as head of human resources or planning...*".
- 3.5. In legislative terms Section 43 of the Localism Act (2011) defines a Chief Officer in the following way (the context for this chapter and section of the Localism Act is the pay accountability requirements) :
- "In this Chapter "chief officer", in relation to a relevant authority, means each of the following—*
- a. the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;*
 - b. its monitoring officer designated under section 5(1) of that Act;*
 - c. a statutory chief officer mentioned in section 2(6) of that Act;*

- d. *a non-statutory chief officer mentioned in section 2(7) of that Act;*
- e. *a deputy chief officer mentioned in section 2(8) of that Act."*

3.6. The Localism Act refers to Section 2 of the Local Government and Housing Act (1989). This relates to politically restricted posts and includes a definition of a Statutory Chief Officer (such as the S151 Officer) and also the Non-Statutory chief officers. These are defined as:

- *a person for whom the head of the authority's paid service is directly responsible;*
- *a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service; and*
- *any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.*

A deputy chief officer is defined as "*as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers*". It is worth noting that the Act recognises that a person "*whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part*".

4. **The Portsmouth definition of Chief Officer**

4.1 With the legislative definitions above it would be possible to argue that a Chief Officer in Portsmouth would comprise the:

- Chief Executive
- Deputy Chief Executive
- S151 Officer
- Direct reports to the Chief Executive (i.e. Port Manager, Director of Public Health, Director of Regulatory Services etc., Director of Integrated Commissioning Unit, Director of Adult Services, Director of Children Services and Education)

4.2 However this would ignore that the direct reports to the Deputy Chief Executive are equivalent to the other directors. With the relationship between these Directors and the relevant Cabinet Member(s) or Committee(s) (such as Employment Committee) it could be argued that these Directors would meet the requirements of someone who "*as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority*". This would make these posts Chief Officer posts under the definition used in the Local Government & Housing Act (1989).

4.3 On this basis it is recommended that Portsmouth City Council ensures that all Chief Officers are on the JNC terms and conditions and that a Chief Officer is defined as someone having one, or more, of the following roles:

- The Chief Executive

- The Deputy Chief Executive
- The S151 Officer
- Direct reports to the Chief Executive (i.e. Port Manager; Director of Public Health; Director of Regulatory Services, Community Safety and Troubled Families; Director of Integrated Commissioning Unit; Director of Adult Services; and, Director of Children's Services and Education)
- Direct reports to the Deputy Chief Executive (i.e. Director of Housing and Property; Director of Transport, Environment and Business Support; Director of Culture and City Development; Director of Finance and Information Services (NB also S151 officer); Director of HR, Legal and Procurement; and, Director of Community and Communication)

5. Equality Impact Assessment

5.1 There is no requirement for an Equality Impact Assessment at this time.

6. Legal Implications

6.1 As this is corrective action, it can be carried out by the monitoring officer.

7. Director of Finance's comments

7.1. There are no financial implications arising directly from this report.

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Signed by: Jon Bell, Director of HR, Legal & Procurement

Appendices:

Appendix 1 - Structure Chart

Appendix 2 - List of posts currently at Band 16 or above

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

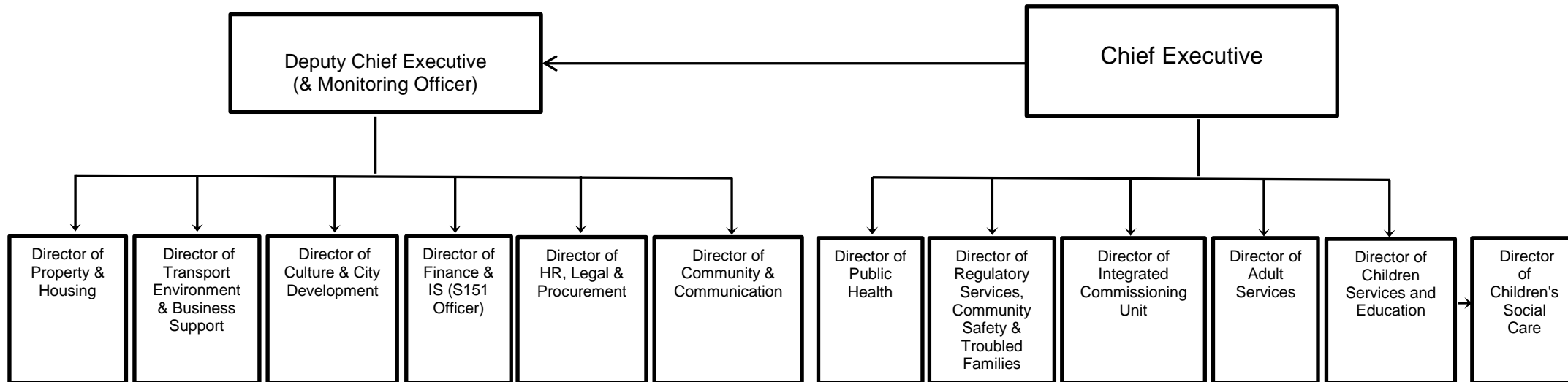
Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/
rejected by on

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Signed by: Name and Title



Portsmouth City Council Management Structure (August 2015)





APPENDIX 2

Current Portsmouth City Council Posts at Band 16 or Higher

Position	Position Grade	JNC Terms & Conditions
Chief Executive	Band 20	YES
Deputy Chief Executive / Monitoring Officer	Band 19	YES
Port Manager	Band 19	YES
Director of Public Health	Band 19	YES
Director of Children Services & Education	Band 19	YES
Director of Finance and Information Services (S151 Officer)	Band 18	YES
Director of Adult Social Care	Band 18	YES
Director of Property & Housing	Band 18	YES
Director of Transport, Environment & Business Support	Band 17	YES
Director of Cultural & City Development	Band 17	YES
Director of Children's Social Care and Safeguarding	Band 17	YES
Director of Community & Communication	Band 17	YES
Director of HR, Legal & Procurement	Band 17	YES
Director of Integrated Commissioning Unit	Band 17	YES
Director of Regulatory Services, Community Safety & Troubled Families	Band 17	YES
Ferry Port Manager	Band 16	NO
Business Manager Ferry Port	Band 16	NO
Troubled Families Co-Ordinator	Band 16	YES
Assistant Head of Finance & Deputy S151 Officer	Band 16	YES
Solent LEP Chief Executive	Band 19	YES