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| <b>Title of meeting:</b>      | Employment Committee  |
| <b>Date of Meeting:</b>       | 15 December 2015  |
| <b>Subject:</b>               | Senior Management Structure - Integration of Health and Social Care |
| <b>Report by:</b>             | Chief Executive   |
| <b>Wards affected:</b>        | N/A   |
| <b>Key decision:</b>          | No  |
| <b>Full Council decision:</b> | No  |

## **1 Purpose of report**

- 1.1 The purpose of this report is to seek the Employment Committee's approval for the acceptance of an application under the Council's Voluntary Redundancy Scheme for the redundancy of one of the Council's Directors. Acceptance is recommended as it is considered that this will afford the opportunity for the Council and its partners across Health and Social care to further its desire to accelerate the integration of health and social care services in the city. This will have some implications for other senior post holders, and the report sets out the appropriate HR process for addressing the consequent issues as well as the process to be followed to create a joint post with NHS Portsmouth Clinical Commissioning Group (CCG).

## **2 Recommendations**

- 2.1 It is recommended that the Committee:
- (i) Agrees to the request for voluntary redundancy of the Director of Adult Services on the basis set out in the report (and subject to a satisfactory arrangement being secured with regard to the statutory Director of Adult Social Services role);
  - (ii) Requests that the Chief Executive engages with the NHS Portsmouth Clinical Commissioning Group to secure the appointment of a joint post across the two organisations that can fulfil the statutory role of Director of Adult Social Services for the City Council;
  - (iii) Requests the Chief Executive to work with the joint DASS postholder and the CCG to design and implement a suitable senior management structure to support the DASS and the CCG, in accordance with the HR policies of the two organisations;

- (iv) Subject to recommendation (iii) being approved, agree for the existing post of Director Integrated Commissioning Unit to be designated as a "third tier" management post as opposed to a chief officer post;
- (v) Records its thanks to Mr Robert Watt for his long service to the city and the City Council and wishes him the very best for the future.

### **3 Background**

- 3.1 Given the extreme pressures on the Council's budgets and anticipated further cuts consequent on the Comprehensive Spending Review 2015, the Council invited applications for Voluntary Redundancy (VR) to be submitted between 23 September and 4 November 2015. Under the scheme (Appendix 1), no benefit accrues to the employee beyond the minimum statutory requirement for redundancy, whether compulsory or voluntary, however the council's existing redundancy payment scheme indicates that a week's pay will not be subject to the statutory cap and includes salary and contractual allowances. The severance terms are the same whatever the post holder's grade, and under the VR scheme it is made clear that the approval of any request is dependent upon Portsmouth City Council's requirement to retain the types of knowledge and skills that are essential in providing services to the people of Portsmouth. The decision to accept or reject an application is final.
- 3.2 The Employment Committee established its senior management structure in February 2015. The Committee agreed to an amendment to it in September to facilitate the recruitment of the Director of Children's Services. The resulting structure is illustrated at Appendix 2.
- 3.3 An application under the VR scheme has been received from the Director of Adult Social Care, Mr Robert Watt. Under the scheme of delegation, this falls to the Employment Committee to determine. Below, I set out my rationale for recommending that the Committee accedes to this request and the measures that should be put in place to ensure that the Council retains the knowledge and skills that are essential in providing services to the people of Portsmouth.

### **4 Director of Adult Social Services (DASS)**

- 4.1 The Director of Adult Services is a politically-restricted chief officer role (section 2, Local Government and Housing Act 1989) and the role is set out in statute under Section 6 of the Local Authority Social Services Act 1978. It is a post with strategic responsibility and accountability for the planning, commissioning and delivery of social services for adults. The Department of Health published guidance on the role of the Director of Adult Social Services in 2006. This is summarised below:
- Chief Executives of local authorities with social services responsibilities should ensure that a DASS is in post. This post can be shared with other responsibilities or other local authorities.

- The local authority shall take steps to ensure that the post holder is given the necessary authority and resources to provide professional leadership (including delivering workforce planning) in social care and deliver the cultural change necessary to implement person-centred services and to promote partnership working, and such other responsibilities as the local authority determines
- The local authority shall ensure that the DASS is made accountable for the delivery of local authority social services functions listed in Schedule 1 of the Local Authority Social Services Act 1970 (as amended), other than those for which the Director of Children's Services is responsible
- Local authorities shall ensure that the DASS is directly accountable to the Chief Executive of the local authority and comparable in terms of seniority, with the Director of Children's Services.

4.2 The Local Authority Social Services Act 1970 (as amended) allows local authorities to jointly appoint a single DASS to cover their local authority areas. The partnership arrangements provided for by the Health Act 1999 also enable joint funding of posts between a local authority and an NHS body. A joint appointment of a person to a DASS post and a post in the NHS is therefore possible. Where such a joint appointment occurs the DASS must remain an employee of the local authority for the full range of social services responsibilities. This eventuality can be facilitated by utilising a Section 113 agreement.

## **5 Consideration of the VR application**

- 5.1 Against the statutory and budgetary backdrop, there are essentially three options that the committee should consider in determining what is best for the Council and the service to the city:
- (i) Whether to accept the VR request?
  - (ii) Whether the DASS responsibilities placed on the Council are best be met from within the Council?
  - (iii) Whether the responsibilities could be met as well or better by a joint post, either with another local authority or another NHS body?

These options need to be considered together, not sequentially.

- 5.2 Clearly, the role of DASS carries very serious responsibilities and a significant proportion of the Council's critical risk, staffing and budget. However, there are management actions which we can take and are being implemented that assist in supporting the DASS. These are described in paragraph 6.2 below.
- 5.3 The VR request cannot be acceded to if the best option to meet the Council's on-going obligations is to replace on a like-for-like basis. However, given the combination of the financial straits local government faces and the shared agenda across health and social care to accelerate the integration of service, I

do not consider that like-for-like is the most advantageous or progressive option.

- 5.4 Over the summer months, Portsmouth City Council has held discussions regarding the future of health and care with partners with the aim of aligning the city's response to the significant health and social care challenges facing the city over the coming years. This has taken into consideration the shared desire of the City Council and our local health partners to increase the level of integration between health and social care. This is consistent with the NHS 5 year Forward View, the commentary accompanying the Chancellor's Autumn statement and emerging thinking across the country, including from bodies such as the LGA and the King's Fund.
- 5.5 Our work has led to the development of a health and social care '*Blueprint for Portsmouth*' which was agreed in principle in the Health and Wellbeing Board on 16 September 2015 and has subsequently been supported by the boards of the CCG, Solent Health Care Trust, Portsmouth Hospital Trust and the Council's Cabinet, where it was presented on 5 November 2015 (attached at Appendix 3). Engagement on the Blueprint has also taken place with Healthwatch, NHS England and the Portsmouth GP Alliance. Its intentions and direction of travel are consistent with the HIOW Devolution prospectus.
- 5.6 A key priority outlined within the Blueprint relates to establishing a single health and care service for Portsmouth. This will require a joined up approach to planning, prioritisation and commissioning across the current public sector organisations. It is also intended to establish a single approach to strategic planning and commissioning for Portsmouth, bringing together functions and expertise from NHS Portsmouth CCG and Portsmouth City Council into a single service.
- 5.7 The scope and significance of the changes implied by the Portsmouth Blueprint will require a number of partners to reshape current resources, responsibilities and functions. A joint appointment across health and social care would undoubtedly demonstrate a commitment to integration from both PCC and the CCG and help bind the mutual interests of the two organisations.
- 5.8 An alternative approach would be to revert to the merger of the roles of DASS and Director of Children's Services (DCS), as in the pre-2015 structure. However, the City Council has recently been successful in appointing a DCS, and whilst that post holder will work closely with health colleagues, I consider that given the budget and service pressures that exist, the adult remit would be too much to add to that role at this stage. Nor would it demonstrate or contribute to the intent to achieve greater and faster integration with health. This view is shared by the Portfolio holders for Adults and Children's Services, with whom I have consulted.

- 5.9 An alternative approach would be to consider a shared DASS with another council. We operated like this from 2012-13, providing DASS cover to Southampton City Council, whilst receiving Director of Public Health support from them. However, that was at a time when the staffing capacity of both councils was significantly stronger, particularly at senior management level, when pressures on service and budgets were not so grave, and before the full desire to accelerate integration within the city had been articulated and supported. For these reasons, I do not recommend this approach.

## **6 Making a joint appointment work**

- 6.1 My preferred model is to secure a joint appointment across health and social care between the NHS Portsmouth Clinical Commissioning Group and the Council. Both are primarily 'commissioning' organisations with significant safeguarding and critical risk responsibilities. We already have a good working relationship with the CCG, a number of joint budgets (s75 Agreements<sup>1</sup>), posts and programmes of work including the Better Care Fund. We also have mutual representation on a number of key partnerships including the Health and Well Being Board, Safer Portsmouth Partnership, Children's Trust and Public Services Board, as well as the Health and Care Executive Board. Co-location and some shared support services, including HR, will make transition easier. This provides a powerful basis upon which to build a joint post and integrated working. Appendix 4 sets out the respective responsibilities of the existing DASS role and the Chief Operating Officer within the CCG.
- 6.2 In considering the scale and breadth of a joint post, it should be noted that some of the DASS responsibilities need not reside with the DASS but can be delegated to suitably senior and experienced staff. For example, when Julian Wooster was both DASS and Director of Children's Services, Robert Watt (then a Head of Service) had the delegated responsibility for being the 'nominated person' responsible for ensuring that CQC registrations linked to our directly-provided Adult Social Care services were maintained. He also had delegated roles as Guardian in relation to Section 7 of the Mental Health Act where he had the responsibility for directing where clients (assessed as having a mental disorder) might reside and attend any place specified for treatment, occupation, education or training. He had a similar legal responsibility as a Court of Protection Deputy for monitoring the use of people's assets where they are judged to have no capacity to do this for themselves. In drawing up the detail of the role and those supporting the postholder, similar arrangements would be looked at. Subject to job evaluation, these may require some recognition through adjustment to grading, but this would have a minor effect on the savings envisaged from this approach (see Director of Finance comments at paragraph 11.1).

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<sup>1</sup> Section 75 of the National Health Service Act 2006 contains powers enabling NHS Bodies to exercise certain local authority functions and for local authorities to exercise various NHS functions.

- 6.3 Making such a joint arrangement work will require the following to be in place:
- (i) Agreement by both organisations on the basis of the arrangement and that the arrangement would be mutually beneficial.
  - (ii) Clear reporting and performance management processes in both organisations and suitable escalation mechanisms if things become 'strained'.
  - (iii) Agreed processes to secure the managerial structures and capacity needed to meet the statutory guidelines and support the joint post holder.
- 6.4 In the Council's existing senior management structure, the post of Director of the Integrated Commissioning Unit is shown as a chief officer post, with a reporting line to the Chief Executive. The post also has a reporting relationship to the Chief Operating Officer of the CCG to reflect joint-funding arrangements. This arrangement will need to be reviewed should members be minded to pursue a joint appointment for the DASS role as recommended in this report. It is proposed that the ICU comes within the management remit of the joint post, and therefore the Director of ICU role will become a "third tier" management post as opposed to a chief officer position within the Council's senior management structure. This would be consistent with Members' decision in respect of the Children's Services structure, and their desire to maintain a smaller senior management team. This change would not require formal consultation with the existing postholder.

## **7 HR Process**

- 7.1 When looking to integrate roles across two public bodies it is important to establish the key responsibilities as this will then determine if the post is a new position and if so, who may be at risk or who may be eligible to apply or be 'matched' into the new position.
- 7.2 Once the role has been agreed by both parties a decision will need to be made regarding which roles, if any, are amalgamated into the new position. This in turn will allow us to understand which posts are being replaced by the new role.
- 7.3 A period of consultation will need to take place (30 days or 45 days) with those staff directly affected by the proposal and during this time those staff that are affected, but not at risk, should receive appropriate communication.
- 7.4 During the consultation process the appropriate selection process will be agreed. This would normally comprise of a ring-fenced selection process and allow consideration for any voluntary redundancy requests.

## **8 Approval process PCC**

- 8.1 As this proposal deletes an existing PCC chief officer position and looks to create an integrated role with Health, the proposal will need to be agreed by Employment Committee.

## **9 Approval process CCG**

- 9.1 NHS Portsmouth Clinical Commissioning Group has delegated powers to approve senior management changes locally.

## **10 Legal Comments:**

- 10.1 The recommendations within this report are compliant with the legal basis for establishing that a post is redundant in the sense that it can be established that the role is no longer required, in addition the action of seeking a voluntary process of selection mitigates risk of challenge and minimises potential reputational damage to the Authority. The process as set out above is clear and concomitant with the relevant HR policies applicable to a voluntary redundancy process.

## **11 Finance Comments:**

- 11.1 There will be a substantial ongoing saving arising from the approval of a jointly funded post. Financial implications are shown in exempt Appendix 5.

## **12 Conclusions**

- 12.1 For the reasons set out above, I consider that this VR request does offer the Council the opportunity to further its interests in integrating health and social care services across the city as well as offering a significant financial saving. My informal discussions lead me to believe that, subject to details, the CCG would be open to discussions on a joint arrangement.

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Signed by:

### **Appendices:**

Appendix 1 - Portsmouth City Council's Voluntary Redundancy Scheme  
Appendix 2 - Senior Management Structure Chart  
Appendix 3 - Blueprint for Portsmouth  
Appendix 4 - Responsibilities of the existing roles  
Appendix 5 - Financial Data (exempt)

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:

| <b>Title of document</b> | <b>Location</b> |
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