

17 July 2012		ITEM 3
General Services Committee		
<b>ITEM OF URGENT BUSINESS – ARRANGEMENTS FOR THE APPOINTMENT OF THE HEAD OF LEGAL &amp; DEMOCRATIC SERVICES AND THE MONITORING OFFICER</b>		
Report of: Graham Farrant, Chief Executive		
Wards and communities affected: All	Key Decision: Non-key	
Accountable Head of Service: Tasnim Shawkat, Head of Legal Services		
Accountable Director: Martin Hone, Director of Finance & Corporate Governance		
This report is public.		
<p><b>Purpose of Report:</b> This report requests the Committee considers and agrees to the proposed arrangements for the appointment of a shared Head of Legal &amp; Democratic Services and Monitoring Officer with the London Borough of Barking and Dagenham.</p>		

**EXECUTIVE SUMMARY**

This report requests the Committee to consider and agree to the proposed arrangements for the appointment of a shared Head of Legal & Democratic Services and Monitoring Officer with the London Borough of Barking and Dagenham.

**1. RECOMMENDATIONS:**

1.1 That the General Services Committee agree to make arrangements for the appointment of a Head of Legal & Democratic Services, to be shared between Thurrock and London Borough of Barking and Dagenham, as set out in paragraphs 3.6 and 3.7 of this report.

**2. INTRODUCTION AND BACKGROUND:**

2.1 The post of Head of Legal & Democratic Services is currently subject to an agreement so that it is shared with the London Borough of Barking and

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Comment [s]: PLEASE CLICK THIS BOX ONCE and enter the name of the Committee you are reporting to (in font 16, not capitals)

Comment [sj]: PLEASE CLICK THIS BOX ONCE and enter the title of your report (in font 16)

Comment [a j]: Please enter the name and job title of the person who will be presenting the report

Comment [s]: Please enter details of any Wards and Communities affected by the

Comment [s]: Yes/No/Not Applicable – a 'Key Decision' is generally one affecting more

Comment [sj]: Please state the Head of Service's name and job title

Comment [sj]: Please state Director's name and job title

Comment [sj]: State whether your report is Public or Exempt. If Exempt (i.e. not to be given to

Comment [sj]: Briefly set out the purpose of your report

Comment [sj]: Please provide a summary of the key points in your report

Comment [s]: The recommendations should be set out in bold in the form of the

Comment [s]: You should briefly explain why the report is on the agenda - See para. 5.3 and 5.4

Dagenham. This arrangement also applies to the statutory designation of “the Monitoring Officer”.

- 2.2 On 18 February 2011 the Cabinet agreed a pilot, under which the London Borough of Barking and Dagenham would second the Head of Legal & Democratic Services from Thurrock to jointly fulfil the role as Head of Service and Monitoring Officer for both authorities on a shared basis. This agreement covered the period from 1 April 2011 to 31 March 2012.
- 2.3 This agreement was then extended for a further 12 months by the Cabinet at its meeting on 22 February 2012, during which time further opportunities for the sharing of Legal Services between Thurrock Council and the London Borough of Barking and Dagenham were to be explored.
- 2.4 It is now necessary to put in place arrangements to appoint a successor, following notice of the resignation of the Head of Legal & Democratic Services and Monitoring Officer, Tasnim Shawkat, to enable her to take up a new post on 1 October 2012 at the London Boroughs of Hammersmith and Fulham and Kensington and Chelsea.
- 2.5 It is proposed that recruitment be undertaken to the post of Head of Legal & Democratic Services and Monitoring Officer, shared between Thurrock Council and the London Borough of Barking and Dagenham. A copy of the job profile and person specification for the post is attached at **Appendix A** to this report.
- 2.6 It is further proposed that, in the first instance, applications for the shared post of Head of Legal & Democratic Services be open to internal applicants only from within both authorities and then extended wider to the external market if necessary.
- 2.7 In the event of an internal candidate from Barking and Dagenham or Thurrock being appointed to the shared post, the “employer” will be defined as being the authority where the successful candidate has been taken from. The person appointed to the post will then be seconded to the other authority.
- 2.8 The salaries will have to reflect the grading/ banding of the respective authorities. It is proposed that the salary for the post be advertised as “From £86k” to reflect the different bands which are as follows:
  - (i) The relevant bands at Thurrock Council, are at HOS6, SCP 16 progressing to SCP 17, which currently equates to £86,502 and £95,502
  - (ii) There are four pay points in the relevant pay band at the London Borough of Barking and Dagenham, CHIEFO-C1 to 4, £70,332 to £108,661. Whilst a formal evaluation of the role has not taken place, we would expect the salary to be at C3, £89,763

- 2.9 Whilst the exact salary has yet to be set, it is reasonable to expect that the salary offered for the shared Head of Legal & Democratic Services is below the £100,000 threshold. Because the proposed salary to be offered for the shared Head of Legal & Democratic Services is below the £100,000 threshold there is no requirement to seek the approval of the Council prior to undertaking this recruitment process.
- 2.10 If, in future, both authorities decide that the shared post should be discontinued, the postholder would revert to become the Head of Service or Divisional Director for the authority they were employed by, with the other authority then embarking upon a recruitment process for the corresponding post.
- 2.11 Section 5 of the Local Government and Housing Act 1989 requires a Local Authority in England to designate one of its officers as “The Monitoring Officer”. The current shared arrangements with the London Borough of Barking and Dagenham have seen the Thurrock Head of Legal & Democratic Services being appointed to undertake this role in both authorities. In any appointment, the designation of an officer as the Monitoring Officer requires the approval of the Council and cannot be determined by a committee or an officer.
- 2.12 As it is proposed to appoint to a shared post between the two authorities, it is therefore necessary for the London Borough of Barking and Dagenham to have representation on the appointment panel. A proposal as to how this can be achieved is considered in the next section of this report.

**3. (ISSUES AND/OR OPTIONS):**

- 3.1 The Officer Employment Rules contained within Chapter 10 of the Council’s Constitution provide for the following:

- “1.1 The final decision on the appointment or dismissal of the Head of Paid Service / Chief Executive or on the appointment of any Statutory Chief Officers/Directors shall be by resolution of Council on the recommendation of the General Services Committee.*
- 1.2 The appointment and dismissal of, and taking disciplinary action against, any Chief Officer/Director shall, except where required to be by resolution of Council under Rule 1.1 above, be conducted by the General Services Committee.*
- 1.3 The General Services Committee may arrange for the discharge of any of its functions under Rule 1.2 above by a Sub-Committee or (with the exception of making a recommendation to Council as set out in Rule 1.1 above or the final decision on the appointment or dismissal of a Chief Officer/Director) an Officer.*
- 1.4 Any Committee or Sub-Committee discharging functions under Rules 1.1 to 1.3 above must include at least one Member of the Cabinet.*

**Comment [s]:** Other headings may be appropriate. The report should outline the reasoning that leads to its recommendations and **must** include:

1. a brief summary of options considered;
2. consultation outcomes
3. a risk assessment.
4. Whether the responsible cabinet members have been consulted/contributed to the report (NB professional and political advice must be clearly distinguished)

- See para.5.5 of the report writing guidelines.

- 1.5 *The function of appointment and dismissal of, and taking disciplinary action against, any Officer of the Authority other than those listed at Rule 1.6 below shall be discharged, on behalf of the Authority, by the Chief Executive or by an Officer nominated by him/her.*
- 1.6 *Rule 1.5 above shall not apply to the appointment or dismissal of, or disciplinary action against:*
- (a) the Head of the Paid Service / Chief Executive*
  - (b) a Statutory Chief Officer/Director*
  - (c) a non-statutory Chief Officer/Director*
  - (d) a political assistant.”*
- 3.2 The Constitution defines a Chief Officer/Director to mean “the Chief Executive / Head of the Paid Service, Statutory Chief Officer/Directors, Directors and any other Officer designated by the Chief Executive / Head of the Paid Service to be a Chief Officer/Director.”
- 3.3 Furthermore, a Statutory Chief Officer is defined as “the Chief Executive / Head of the Paid Service, the Section 151 Officer and the Monitoring Officer.”
- 3.4 In addition to those provisions identified above, the terms of reference of the General Services Committee provide for the committee to appoint or dismiss or make arrangements for the appointment or dismissal of Directors, the Chief Finance Officer or the Monitoring Officer.
- 3.5 Given that the post will be shared between the London Borough of Barking and Dagenham and Thurrock Council, it is necessary for Barking and Dagenham Members to be equally as involved in the recruitment process. Accordingly, Members are asked to consider making arrangements for this appointment to be made, rather than undertaking the recruitment process and making the appointment as the whole General Services Committee.
- 3.6 Members are therefore requested to consider the following proposal to enable this post to be recruited to, in conjunction with the London Borough of Barking and Dagenham and in accordance with the Council’s Constitution:
- (i) To nominate a number of Members of the General Services Committee as is considered appropriate to form an interview panel, meeting alongside the corresponding Member body charged with making such appointments at the London Borough of Barking and Dagenham.
  - (ii) The Interview Panel is to be supported by the Chief Executive acting on behalf of both Councils, supported by senior HR officer to be nominated by the London Borough of Barking and Dagenham.

- 3.7 To enable the appointment to process to proceed it is proposed that the interview panel has the following terms of reference, which are to be carried out within the approved HR and other policies of both authorities:
- (i) To undertake the final interview process, supported by Chief Executive, together with a senior HR officer to be nominated by the London Borough of Barking and Dagenham.
  - (ii) To make the appointment of the Head of Legal & Democratic Services for both authorities in accordance with their respective policies and procedures for making such an appointment (see Employment Procedure Rules in Chapter 10 of the Constitution for the process as it applies to Thurrock Council).
  - (iii) In accordance with (ii) above, to make a recommendation to Thurrock Council in terms of the appointment of the Monitoring Officer.
  - (iv) In accordance with (ii) above, to make a recommendation to the Assembly at the London Borough of Barking and Dagenham in terms of the appointment of the Monitoring Officer.

**4. CONSULTATION (including Overview and Scrutiny, if applicable)**

- 4.1 The Trade Unions in both authorities have been informed of the proposal for a shared Head of Legal & Democratic Services and Monitoring Officer. .

**5. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

- 5.1 Local authorities are having to look at doing more with less and finding new ways of providing services more cost efficiently. The proposal for a shared Head of Legal & Democratic Services and Monitoring Officer provides the Council with an opportunity to look further at more efficient ways of providing legal services and is consistent with the Council's policies and priorities.

**6. IMPLICATIONS**

**6.1 Financial**

Implications verified by: **Martin Hone**  
 Telephone and email: **(01375) 652412**  
**mhone@thurrock.gov.uk**

The sharing of the Head of Legal & Democratic Services and Monitoring Officer role will generate savings to the Legal services budget of the salary costs of the Head of Legal Services.

**Comment [j]:** This should include any consultation with Ward Members and Shadow Portfolio Holders, as well as any public or statutory consultation

**Comment [a]:** Please refer to Section 5.7 of the Report Writing Guidelines

**Comment [sj]:** This section should always be completed – if they are dealt with fully in another part of the report, they also need a brief cross reference here. The names and job titles of the officers providing the implications should be provided in full – see Guideline 6.1 and please note Democratic Services Deadlines and ensure that officers providing implications are given 5 clear working days to work on the report. Authors can write implications but they must be signed off by the appropriate officers

**Comment [sj]:** See Guideline 6.2

6.2 **Legal**

Implications verified by: **Tasnim Shawkat**  
 Telephone and email: **tshawkat@thurrock.gov.uk**  
**01375 652442**

The legal implications regarding the recruitment process are contained in the body of the report.

In terms of sharing a post legally this can be achieved under section 113 (2) Local Government Act 1972, which provides for the power to place staff at the disposal of another authority.

This in turn has the effect of deeming the appointment / secondment of an officer from another authority as an officer of the authority being appointed and thereby satisfy the requirement under section 5 Local Government and Housing Act 1989 that an authority appoint "one" of its staff to be Monitoring Officer.

6.3 **Diversity and Equality**

Implications verified by: **Tasnim Shawkat**  
 Telephone and email: **tshawkat@thurrock.gov.uk**  
**01375 652442**

There no direct diversity implications noted in this report. However both local authorities are under a statutory duty to ensure that statutory equality duties are properly implemented.

6.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

None

7. **CONCLUSION**

7.1 The General Services Committee is recommended to consider and agree to the recommendation contained within this report to enable an efficient process to be conducted, in accordance with the provisions of the Constitution, for the recruitment of a shared Head of Legal & Democratic Services with the London Borough of Barking and Dagenham.

Comment [sj]: See Guideline 6.3

Comment [sj]: See Guideline 6.4

Comment [sj]: This should inform the recommendations in the report

**BACKGROUND PAPERS USED IN PREPARING THIS REPORT:**

- Thurrock Council Constitution
- Section 5 of the Local Government and Housing Act 1989

**Comment [sj]:** See Guideline 8. If any Papers are to be placed in the Members room that relate to this report, you should also list them here

**APPENDICES TO THIS REPORT:**

- Appendix A –Job Profile and Person Specification

**Comment [sj]:** List the Appendices referred to in the Report

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**E-mail:** 01375 652442

**Comment [sj]:** Insert the full contact details of the author of the report