

SHADOW EXECUTIVE

5 AUGUST 2008

SUBJECT	Appointment of Members To Staffing Committee and Confirmation of the Process for Appointment of Heads of Service (To appoint Members to sit on the Staffing Committee in the light of the provision within the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 that the appointment and dismissal of Chief Officers shall be the responsibility of the Executive rather than the Council and to confirm the process for the appointment of Heads of Service.)
REPORT OF	Interim Chief Executive/Interim Monitoring Officer
<i>Contact Officer: (Kathrin John Tel: 01462 611033) Martin Williams Tel: 01462 611604)</i>	

IMPLICATIONS

SUSTAINABILITY	None
FINANCIAL	Following the recent approval of a Scheme of Members' Allowances travelling allowances are payable to appointed Members attending meetings of the Staffing Committee.
LEGAL	The Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 provide that functions relating to recruitment, appointment and dismissal of any Chief Officer shall, in the case of Central Bedfordshire, be a function of the Shadow Executive.
PERSONNEL/EQUAL OPPORTUNITIES	None arising from consideration of this report.
COMMUNITY DEV/SAFETY	None
TRADE UNIONS	Discussions have taken place with the Trade Union with regard to the proposals in this report.
HUMAN RIGHTS	None arising from consideration of this report.
KEY ISSUE	No
BUDGET/POLICY FRAMEWORK	No

OTHER DOCUMENTS RELEVANT TO REPORT

None

RECOMMENDATION(S):

1. That a Staffing Committee of the Shadow Executive be established comprising 4 Members, 3 Conservative and 1 Liberal Democrat.
2. That the Shadow Executive appoint four Members to serve upon the Committee.
3. That the terms of reference of the Staffing Committee, as set out at Appendix A to this report, be approved.
4. (a) That, save as provided in (b) below, the Interim Chief Executive be authorised to make appointments to posts at Head of Service level in accordance with the provisions of the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 and the Local Authorities (Standing Orders) (England) Regulations 2001.

(b) That where there are no suitable internal candidates for Heads of Service posts, the posts be advertised externally and appointments made by the Staffing Committee.

Reason for Recommendation: To enable, in the light of the requirements of the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008, a new Committee of the Shadow Executive to be established to deal with the recruitment, appointment and dismissal of the Head of Paid Service and recruitment and appointment of Chief Officers (Directors) and, where there are no suitable candidates for the posts, Deputy Chief Officers (Heads of Service). To confirm the process for the appointment of Heads of Service.

Background

1. As Members will recall, at the meeting of the Shadow Council held on 10 April 2008, an Appointments and Appeals Committee was established to deal with the appointment of the Head of Paid Service and Chief Officers and to hear any appeal by an employee. The Committee was established on the basis of the existing statutory provision whereby appointment of staff may not be a function of the Executive and therefore is a Council function.
2. The Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 came into force on 28 June 2008. The Regulations provide that, in the case of the Central Bedfordshire Shadow Council, the functions relating to the recruitment, appointment and dismissal of any Chief Officer (including the Head of Paid Service) shall be the responsibility of the Shadow Executive. It is therefore necessary for the Shadow Executive to put in place arrangements to enable it to discharge its new responsibility as these can no longer be exercised by a committee of the Council.

3. A committee of the Shadow Executive can only comprise members who are members of the Shadow Executive itself and co-option and substitution of non-executive members is not permitted. There is no requirement for political balance on a committee of the Executive however, to reflect the membership of the Appointments and Appeals Committee originally established by the full Council, it is proposed that the committee comprise 4 Members, 3 Conservative and 1 Liberal Democrat.
4. The Shadow Executive at its meeting held on 10 June 2008 approved the proposed management structure for Central Bedfordshire. Arrangements are now in hand to undertake the recruitment and interview process. The Shadow Executive is invited to establish a committee to undertake the new duties referred to in paragraph 2 above. Members are asked to note that the Constitution of the Shadow Council provides for responsibility for dismissing officers at Chief Officer level and below to be the responsibility of the Interim Chief Executive.
5. Suggested terms of reference for the new committee are set out at Appendix A to this report.
6. Under the Staffing Regulations the term “Chief Officer” is taken to also include “Deputy Chief Officers” – ie: officers reporting directly to a Director (to be known as Heads of Service at Central Bedfordshire). Under the Regulations, these posts will be subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) provisions and will be ring-fenced to staff in relevant existing posts within the three authorities. The selection process for Heads of Service will not be an opportunity for promotion but will provide for staff to transfer from broadly comparable roles in the constituent authorities to roles in the unitary authority. Any staff not slotted into a post at this stage will be subject to the TUPE provisions and alternative redeployment /redundancy will be considered.
7. Given the short timescales involved in completing this process and the number of posts to be filled, it is proposed that, except where there are no suitable internal candidates for a post, this function be delegated to the Interim Chief Executive. Where there are no suitable internal candidates for a post, then it is proposed that the appointments process should be undertaken by the Staffing Committee.
8. The Local Authorities (Standing Orders) (England) Regulations 2001 require that prior to offering an appointment as Chief Officer (including Deputy Chief Officers (ie: Heads of Service)) or giving a notice of dismissal, the person or body responsible for the appointment or dismissal must be satisfied that either the Executive has no objection to the appointment or dismissal or that any such objection is not “material” or “well-founded”.
9. Councils are required to include provisions in their constitutions requiring the proper officer to notify each member of the Executive of a proposed appointment or dismissal and to give a specified period within which the

Leader may advise the Proper Officer of any objection on the part of the Executive to the proposed appointment or dismissal.

10. If no such objection is received within the specified time, the appointer or dismissor may proceed with the appointment or dismissal.
11. If such an objection is received within the specified time, the appointer or dismissor cannot proceed unless satisfied that the objection is not material or well founded. The Department for Communities and Local Government has confirmed that the Staffing Regulations have not disappplied the requirements of the 2001 Regulations and thus this process will need to be followed in respect of appointments made at Deputy Chief Officer (Head of Service) level and above.
12. The existing procedure is set out in Rules 3 and 4 of the Officer Employment Procedure Rules of the Shadow Council's Constitution, albeit that the Rules will need to be amended to reflect the proposed establishment of a Staffing Committee of the Executive and the delegation of appointments at Head of Service level (save where there are no suitable internal candidates) to the Interim Chief Executive, if agreed by the Shadow Executive.
13. In the light of the revised statutory provisions arising from the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008, it will be necessary for consequential changes to be made to Part 3 (Responsibility for Functions) and Part 4 (Officer Employment Procedure Rules) of the Constitution. The Interim Monitoring Officer, in consultation with the Chairman of the Council and the Leader, has authority to make such changes under Article 15 of the Shadow Constitution.
14. As indicated in paragraph 4 above, arrangements for the recruitment process are now well under way with the first assessment centre arranged for 13 August 2008 and the first interviews on 14 August. In view of the timescales and urgency involved in proceeding with the appointments, it is considered that the decisions which the Shadow Executive is invited to make as set out in the recommendations above are urgent and should be exempt from the call-in procedure under paragraph 15 (d) of the Overview and Scrutiny Procedure Rules.

Background Papers: The Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008
Department for Communities and Local Government –
Local Government Restructuring – Guidance on
Staffing Issues

Location of Papers: Committee Section, Priory House, Monks Walk,
Chicksands, Shefford, Beds

File Ref: N/A

Appendix A

Staffing Committee

Terms of Reference

1. To undertake the recruitment and selection process for the appointment of:-
 - (a) the Head of the Paid Service (Chief Executive);
 - (b) Chief Officers (Directors); and
 - (c) Deputy Chief Officers (Heads of Service) in respect of posts for which there are no suitable internal candidates

having regard to the relevant provisions of the Bedfordshire (Structural Changes) Order 2008, the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 and the appropriate procedures set out in the Officer Employment Procedure Rules.

2. To make arrangements for the dismissal of the Head of Paid Service having regard to the relevant provisions of the Bedfordshire (Structural Changes) Order 2008, the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 and the appropriate procedures set out in the Officer Employment Procedure Rules.