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Merton Council

Council meeting

Membership

The Mayor: To be appointed at the Annual meeting

The Deputy Mayor: To be appointed at the Annual meeting

Councillors: Agatha Mary Akyigyina OBE, Stephen Alambritis, Mark Allison, Stan Anderson, Laxmi Attawar, Eloise Bailey, Thomas Barlow, Nigel Benbow, Hina Bokhari, Kelly Braund, Mike Brunt, Adam Bush, Omar Bush, Ben Butler, Tobin Byers, Billy Christie, David Chung, Caroline Cooper-Marbiah, Pauline Cowper, Stephen Crowe, Mary Curtin, David Dean, John Dehaney, Nick Draper, Anthony Fairclough, Edward Foley, Brenda Fraser, Jenifer Gould, Edward Gretton, Joan Henry, Daniel Holden, James Holmes, Andrew Howard, Janice Howard, Natasha Irons, Sally Kenny, Linda Kirby, Paul Kohler, Rebecca Lanning, Najeeb Latif, Edith Macauley MBE, Russell Makin, Peter McCabe, Simon McGrath, Nick McLean, Oonagh Moulton, Aidan Mundy, Hayley Ormrod, Dennis Pearce, Owen Pritchard, Carl Quilliam, David Simpson CBE, Marsie Skeete, Peter Southgate, Geraldine Stanford, Eleanor Stringer, Dave Ward, Martin Whelton, Dickie Wilkinson and David Williams MBE JP

Date: Wednesday 16 September 2020

Time: 8.00 pm, or on the rise of the Annual meeting scheduled for 7.15pm the same evening

Venue: This will be a virtual meeting and therefore will not take place in a physical location, in accordance with s78 of the Coronavirus Act 2020.

This is a public meeting and can be viewed by following this link
www.youtube.com/user/MertonCouncil

For more information about the agenda and the decision making process contact democratic.services@merton.gov.uk or telephone 020 8545 3616

Press enquiries: communications@merton.gov.uk or telephone 020 8545 3181

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Council meeting

16 September 2020

- | | | |
|----|--|-----------|
| 1 | Apologies for absence | |
| 2 | Declarations of Pecuniary Interest | |
| 3 | Announcements by the Mayor, Leader and Chief Executive | |
| 4 | Motion to suspend Council Procedure Rule 2.3 to vary the order of business as set out below | |
| 5 | Public questions to cabinet members | To follow |
| 6 | Councillors' questions to cabinet members | To follow |
| 7 | Social Media Guidance for Councillors | 1 - 8 |
| 8 | Amendments to the Constitution | 9 - 20 |
| 9 | Appointment of Director of Children, Schools and Families; and Assistant Director of Public Protection | 21 - 32 |
| 10 | Business for the next ordinary meeting of the Council | |

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

Committee: Council

Date: 16 September 2020

Wards: All

Subject: Social Media Guidance for Councillors

Lead officer: Louise Round, Managing Director of SLLP and Monitoring Officer

Lead member: Chair of Standards and General Purposes Committee

Contact officer: Louise Round, Managing Director of SLLP and Monitoring Officer

Louise.round@merton.gov.uk

Recommendations:

A. To adopt the Social Media Guidance for Councillors.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 To seek approval of the Social Media Guidance for Councillors, which is designed to give guidance on the safe use of social media.

2 DETAILS

2.1 The use of social media is increasing exponentially. Whilst it is a useful tool for all walks of life, including assistance in performing the role of a Councillor, the pitfalls are becoming more apparent. It is important to have safeguards in place to ensure that the benefits of social media are exploited, without breaching the law or codes of conduct. This guidance has been designed to raise awareness of the responsibilities of Councillors in relation to social media and to give guidance on the safe use of social media. It should be read in conjunction with the Councillor Code of Conduct and the Acceptable Use of IT Policy. A copy of the Guidance is attached at Appendix 1.

2.2. This report was considered by the Standards and General Purposes Committee in July following consultation with political groups and the draft guidance was recommended to Council for adoption

3 ALTERNATIVE OPTIONS

3.1 The Council could have taken no action in this respect, but because of the increasing number of incidents nationally involving social media, this was not considered a viable option.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1 The report has been the subject of consultation with all the political groups represented on the Council.

5 TIMETABLE

- 5.1 The report was considered by the Standards and General Purposes Committee in July to be reported to the next available Council meeting for adoption.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1 There are no financial, resource or property implications.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1 There is potential for breaches of various areas of law including defamation, copyright, harassment, data protection, discrimination and malicious and obscene communications in the use of social media.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1 No equalities impact needs assessment (EINA) has been carried out, but the guidance included information about potential breaches of equality provisions.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purposes of this report, other than guidance is given regarding prevention of potential crimes.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The purpose of the Guidance is to minimise risk in relation to such things as reputational damage or breaches of the law.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Social Media Guidance for Councillors

12 BACKGROUND PAPERS

- 12.1. Social Media Guidance for Councillors

Social Media Guidance for Councillors

Section 1 – Introduction

1. The Council welcomes and wishes to encourage Councillors' use of new technology, including social media. It is not a requirement for Councillors to have a Facebook or Twitter account or use other forms of social media. If Councillors are already using or planning to use social media in connection with their work as a councillor, they should ensure that they are familiar with the guidance set out below and that their use of social media does not put the organisation's information and security systems at risk.
2. Most people are familiar with doing things online and residents will increasingly expect the Council to provide its services online, with the same level of interactivity that they find everywhere else. However, there are challenges that may discourage Councillors and the Council from using social media. For example, inappropriate use (which may occur inadvertently) can cause significant damage to a Councillor's (or the Council's) reputation and can lead to legal claims. In addition, technology is changing fast. This can mean that it is hard to keep up and maintain useful interaction with residents.
3. There are also some pitfalls to be aware of, and this Guidance is produced to help Councillors avoid these. This Guidance does not tell Councillors what social media is, or which blogs or networks might be used effectively. It assumes that Councillors are aware of those. It deals with the pitfalls that specifically apply to the role of local Councillors.

Section 2 – Legal Considerations

4. Three of the important Nolan Principles applying to those in public life are "Openness", "Accountability" and "Leadership". That means Councillors should be as open as possible about the actions and decisions they take, submit to an appropriate level of public scrutiny, and lead by example. Social media can be a vital tool for public debate and its use by Councillors is encouraged.
5. In the same way as anyone else publishing material, Councillors will need to be aware of the laws that apply to published material. Some of the main ones are these:

- a. **Defamation:** if you publish an untrue statement about a person that is damaging to their reputation you may be liable to pay damages;
 - b. **Copyright:** publishing information that is not yours, without permission, may also result in an award of damages against you;
 - c. **Harassment:** it is an offence to repeatedly pursue a campaign against a person that is likely to cause alarm, harassment or distress;
 - d. **Data protection:** do not publish personal data of other people, including photographs, without their express permission to do so;
 - e. **Incitement:** it is an offence to incite any criminal act;
 - f. **Discrimination and 'protected characteristics':** it is unlawful to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010);
 - g. **Malicious and obscene communications:** it is an offence to send malicious or obscene communications
6. . Social media posts should not include confidential or commercially sensitive information belonging to the Council, or personal or confidential information about an individual. Nor should anything be published which could reasonably be considered abusive or threatening, as promoting g illegal activity or which is intended to deceive.
7. Additional considerations apply to Councillors.

Bias and pre-determination

8. Members sitting on regulatory committees such as planning or licensing should be aware that they are allowed to have a view but must not have gone so far as to have predetermined their position on a matter. Any views aired on social media could be used as evidence of making a decision in advance of hearing all relevant information. The Council's decision is then open to challenge and could be invalidated, and the 'disrepute' provisions of the Code of Conduct for Members could be engaged.

Equality and discrimination

9. The Council is a public authority required to comply with the Equalities Act 2010. As noted above it is unlawful to discriminate against anyone based on their protected

characteristics. The Council must also have 'due regard' to the Public Sector Equality Duty (which consists of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations); Councillors should exercise caution to ensure they do not place the Council in breach of that duty by publishing content when appearing to act in their official capacity.

Electioneering

10. Council resources, including Council mobile devices or IT equipment, should not be used for party political/campaign purposes. Particular care should also be taken when using social media during the pre-election period. The Electoral Commission has further guidance including on the requirements to provide a return of expenditure on election advertising which includes web advertising.

Human Rights

11. Article 8 of the European Convention on Human Rights (ECHR) provides that public authorities should not interfere with the right of individuals to a private and family life without lawful authority to do so, and where it is necessary, proportionate, and in pursuit of one of the aims set out in Article 8(2). (These are national security, public safety, economic well-being, health or morals, prevention of crime or disorder, or protecting others' rights).
12. Article 10 of the ECHR also protects councillors' freedom of expression although this a qualified right which may be limited in order to protect the rights and interests of others. Case law has established the principle that in a political context, more robust exchanges might be acceptable than would otherwise be the case. This does not extend to gratuitous personal comment.

Code of Conduct

13. Councillors may use social media in both an official and personal capacity but they must be aware that the public may perceive them as acting in either capacity when that is not their intention. Any social media account which could be potentially linked to a councillor would need to meet the standards of the code of conduct.

Section 3 – Responsibilities of Councillors

14. Councillors will need to monitor and, where appropriate, censor or remove the contributions made by others to their sites. Allowing defamatory or offensive statements to remain on a site can become the Councillor's own legal problem as the 'publisher' of the material and could also give rise to Code issues where allowing comments to remain could be seen as condoning or endorsing them.
15. Similarly, 'liking', 'sharing' or 're-tweeting' posts could be seen as an endorsement of them and legally this can be a separate instance of publication, by the Councillor, to which all the legal and Code considerations would apply.
16. Beyond that it is generally best to allow disagreement rather than to seek to censor it. However, there is no need to respond to everything and unhelpful online arguments should be avoided. Be professional, respectful and polite, even (or especially) when corresponding with those who do not return the courtesy.
17. Careful use of language is required. Inappropriate and offensive material should not be published and sarcasm, irony and ambiguous comments should be avoided.
18. Promptly admit to mistakes.
19. Avoid using social media when you are tired, angry, upset or your judgment may be impaired as something permanently published can't be easily taken back
20. Think carefully about who to 'follow' or 'befriend' online. Online 'friendships' with council officers should be avoided as they may compromise the appearance of impartial advice. It is inadvisable to 'follow' anyone without a good reason – some constituents may find it uncomfortable (and see the Human Rights comments above). Many Councillors wait to be 'followed' before returning the compliment.
21. Always ensure the security of your devices to prevent unauthorised access by third parties who may make inappropriate use of the device. You will have signed up to the Acceptable use of IT Policy, so refer to its contents for guidance.

Section 4 – Principles for using Social Media

You should follow these five guiding principles for any social media activities:

22. **Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times.

Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.

23. **Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
24. **Be honest about who you are** – it is important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role, in particular a clear distinction should be drawn between use of an account in your personal capacity and use in your capacity as a councillor. Note that merely stating you are acting in your private capacity may not be sufficient.
25. **Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you cannot. Respond to questions and comments in a timely manner.
26. **Think twice** – think carefully about all your social media posts. Once published it will be too late to change your mind. Following these rules and seek further guidance if you need it.

Section 5 – Use of Social Media during Committee Meetings

27. Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression they are giving to others. Councillors should be mindful that regulatory committees such as planning or licensing require the Councillor to alert officers to any lobbying material they have received. This would be difficult if it arrives on Twitter and is read by the Councillor during the course of a meeting.
28. Mobile devices enable councillors to manage their busy lives when time is at a premium. There may be occasions when texting or e-mailing between Councillors during meetings on matters relevant to the debate at hand may be valuable (on the same basis as circulating paper notes) However it is important for Councillors not to give the impression that insufficient attention is being given to the discussion at the meeting. That could lead to the relevant decision coming under challenge if Councillors are perceived to have made a decision without having properly listened to the debate. It could also result in Code complaints of a failure to treat others with respect or of bringing the Council into disrepute.

Section 6- Inappropriate use of Social Media by Others

29. Anyone receiving threats, abuse or harassment via their use of social media should report it to the police.
30. Other inappropriate content can be reported to the social media site directly to ask for it to be removed. You may wish to save a screenshot in the circumstances.

Section 7 - Further Reading Materials

- Connected Councillors – A guide to using social media to support local leadership. Local Government Association.
- The Local Government Association's webpage on social media

Section 8 – Complaints

30. These guidelines do not form part of the Code of Conduct for Members but there may be instances where councillors' use of social media amounts to a breach of that Code and the Monitoring Officer may take these guidelines into account when considering whether such a breach has taken place. The procedure for making complaints against councillors is set out in part four of the Council's constitution:

<https://democracy.merton.gov.uk/ecSDDisplay.aspx?ID=212&RPID=0>

Contact details

For further information please contact Louise Round, Monitoring Officer on 020 8545 3380.

Email: louise.round@merton.gov.uk.

Fabiola Hickson, Deputy Monitoring Officer on 020 8545 4666. Email:

Fabiola.hickson@merton.gov.uk

Committee: Council

Date: 16 September 2020

Wards: All

Subject: Amendments to the Constitution

Lead officer: Louise Round

Lead member: Councillor Mark Allison

Contact officer: Louise Round

Recommendations:

- A. To note that the Scheme of Delegation to the Chief Executive set out in Part 3E of the Constitution will be amended to reflect the decision of the Cabinet on 7 September 2020 to delegate authority to implement the local lockdown provisions set out in The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750 to the Chief Executive;
 - B. To approve the amended Terms of Reference for the Appointments Committee and Officer Employment Procedure Rules, as set out in Appendices A and B respectively;
 - C. To delegate authority to the Monitoring Officer to amend the Council's constitution to incorporate any direct or consequential changes resulting from the approval of recommendation B above; and
 - D. To note that the Standards and General Purposes Committee agreed at its meeting on 23 July 2020 to commence a review of the Council's constitution and to appoint a working group of members to carry out that review in conjunction with the Monitoring Officer, with a view to reporting back to Council in February 2021.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report updates Council on some changes made by Cabinet to its scheme of delegation to the Chief Executive and also contains recommendations from the Standards and General Purposes Committee for some amendments to the constitutional provisions relating to the appointment of senior officers.

2 DETAILS

- 2.1. The Government has recently introduced new regulations contained in The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750
- 2.2. These new Regulations contain executive powers for local authorities to implement local lockdown measures for the protection of public health in respect of Covid-19 outbreaks.

- 2.3. There is no specific delegation to the Chief Executive to exercise these powers and accordingly the Cabinet agreed, for the avoidance of doubt, to delegate authority to exercise the powers contained in the Regulations to the Chief Executive. The scheme of delegation contained in the Part 3E of the Constitution will therefore be amended specifically to include reference to these executive powers. Council is asked to note that the following words will be added to section B, page 54 of the constitution after paragraph 1:

“For the avoidance of doubt, this includes all executive powers conferred by the Health Protection (Coronavirus Restrictions) (England) (No.3) Regulations 2020, including any future amended or replacement regulations relating to the protection of public health in respect of Covid-19 outbreaks and local lockdown restrictions”

- 2.4. At its meeting on 23 July 2020, the Standards and General Purposes Committee considered a report recommending some changes to the rules governing the appointment of chief officers, known as the Officer Employment Procedure Rules, in order to resolve some anomalies in the procedure to be followed and to update the definition of the officers to which they apply. The Committee also agreed to recommend the amendment of the terms of reference of the Appointments Committee to formalise the custom and practice of using a sub panel of the main Committee to interview chief officers. If the changes are agreed, the Appointments Committee will be able, but not obliged, to appoint a subcommittee to carry out that activity. The formal appointment of the Chief Executive and Monitoring Officer will still have to be agreed by full Council. The proposed amendments are set out in appendices A and B.
- 2.5. Finally, the Committee also agreed to commence a review of the Constitution to ensure that it allows for robust and transparent decision making, reflects all relevant legislative changes and hangs together as a coherent whole. The Committee appointed a cross party working group comprising the following councillors who will work with the Monitoring Officer and the Independent Persons over the course of the autumn. The working group’s recommendations will be brought to full Council in February 2021.

- 2.6. Members of the Working Group:

Councillor Billy Christie
Councillor Natasha Irons
Councillor Martin Whelton
Councillor David Williams
Councillor Paul Kohler
Councillor Peter Southgate

3 ALTERNATIVE OPTIONS

- 3.1. So far as the local lockdown powers are concerned, given the circumstances in which the need to exercise them are likely to arise, it does not seem sensible to reserve these decisions to the Cabinet. In relation to the other recommended changes to the constitution, it is a principle of good governance that the rules under which the Council operates are clear and consistent and the recommended changes will achieve this in respect of the important matter of senior staff appointments.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The contents of this report have been considered by the Cabinet and Standards and General Purposes Committee respectively. There is no requirement for public consultation

5 TIMETABLE

- 5.1. The delegation of local lockdown powers to the Chief Executive is already in effect. If agreed by Council, the other recommended changes will take immediately.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. These are set out within the body of this Report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. These form part of the regulations and the requirement for proportionality.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The recommendations support the need to respond urgently to risks to public health.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

A Amended Officer Employment Procedure Rules

B Amended Terms of Reference of the Appointments Committee.

12 BACKGROUND PAPERS

- 12.1. The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750

- 12.2. Merton's Local Outbreak Control Plan

1.2 Appointments Committee

(a) **Membership:** 10 Members

(b) **Functions:**

- (i) To recommend the appointment of a Chief Executive and Head of Paid Service and the Monitoring Officer to the Council
- (ii) To interview and appoint Chief Officers, ~~and officers at director level or equivalent, including the Monitoring Officer as defined by the Officer Employment Procedure Rules~~ and to approve statements specifying:
- the duties of the officer concerned;
 - any qualifications or qualities to be sought in the person to be appointed;
 - to make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
 - to make arrangements for a copy of the statements mentioned in sub paragraph (ii) to be sent to any person on request; and
 - to make arrangements to shortlist applicants for these posts and agree the assessments to be taken by shortlisted applicants.
- (iii) To determine the terms and conditions on which officers hold office (including the terms of dismissals), restructures, exits, statutory discretion relating to termination payments, reorganisations involving changes to staff responsibilities at Deputy Chief Officer and above.
- (iv) All other staffing matters that have not been delegated to any other decision maker
- (v) To establish a sub-committee to perform any of these functions as appropriate

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Part 4 – H

OFFICER EMPLOYMENT PROCEDURE RULES

Any mandatory standing orders issued in respect of senior appointments will be incorporated into these rules, as they become available.

References to Chief Officers and Deputy Chief Officers in these rules shall be construed in accordance with the provisions of section 2 of the Local Government and Housing Act 1989 and shall include both statutory and non statutory chief officers as defined by that section. A list of all employees falling within the definition of deputy chief officer shall be maintained by the Head of Human Resources.

For the purposes of these rules, the Proper Officer shall be the Head of Democracy Services

For the avoidance of doubt, the following provisions of these rules do not apply to the appointment of officers on an interim basis.

1. Recruitment and Appointment

(a) Declarations

The Council will draw up a statement requiring any candidate for appointment as an officer to state, in writing, whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.

Where a candidate has declared such a relationship, any offer of employment shall be subject to approval by the relevant Chief Officer or his/her nominee.

(b) Seeking support for appointment

The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor or officer for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

No councillor or officer will seek support for any person for any appointment with the Council.

2. Recruitment of the Chief Executive Paid Service and Chief Officers

- 2.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
 - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- 2.2 For any new appointment where the salary is £100k per annum or more approval should be obtained from Full Council prior to the commencement of the recruitment process

3. **Appointment of Chief Executive and the Council's Monitoring Officer**

- 3.1 Full Council must, before an offer of appointment is made, approve the appointment of the Chief Executive and the Monitoring Officer, following the recommendation of such an appointment by the Council's Appointments Committee or Sub Committee. That Committee must include at least one member of the Cabinet.
- 3.2 Full Council may only make or approve the appointments of the Chief Executive and the Monitoring Officer where no material or well-founded objection has been made by any member of the Cabinet (see paragraph 6 below).

4. **Appointment of Chief Officers**

- 4.1 The Appointments Committee or Sub-Committee (the appointer) will appoint Chief Officers. That committee must include at least one member of the Cabinet.
- 4.2 An offer of employment as a Chief Officer or the Monitoring Officer shall only be made where no material or well-founded objection from any member of the Cabinet has been received (see Para 6 below). ~~Or if the salary package of the post is higher than £100,000, then, in line with the Council's pay policy statement if the will be reported to full Council for approval.~~
- 4.3 ~~Where the salary package relating to a post exceeds £100,000, prior approval from full Council must be obtained before that post is advertised but with the exception of the Chief Executive and the Monitoring Officer, the actual appointment to that post does not require Council approval.~~

5. Other Appointments

- 5.1 Appointment of officers at or below deputy chief officer (other than assistants to political groups and an assistant to the Mayor and the Monitoring Officer) is the responsibility of the Head of Paid Service or his/her nominee(s), (the appointer) and may not be made by members. However, appointments of deputy chief officers are subject to the procedure set out in paragraph 6, even though the appointment is being made by officers.

6. Offers of Appointment

- 6.1 An offer of an appointment to the following posts shall comply with the following provisions of this rule:

- a) the Chief Executive;
- b) the Director of Communities and Housing*;
- c) the Director of Children, Schools and Families*
- d) the Director of Public Health*
- e) the Director of Corporate Services*
- f) the Director of Environment and Regeneration**
- g) a deputy chief officer (including the post designated as the Council's Monitoring Officer);

* statutory chief officer

** non statutory chief officer

- 6.2 Such an appointment shall not be made by the appointor until

- a) the appointer has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- b) the Proper Officer has notified every member of the Cabinet of the authority of –
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment ; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
- c either –
 - (i) the Leader has, within the period specified in the notice under subparagraph (b)(iii), notified the Proper Officer that neither he nor any

other member of the Cabinet has any objection to the making of the offer; and

- (ii) the Proper Officer has notified the appointor that no objection has been received by him within that period from the Leader; or
- (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded

- 6.3 Appointment of an assistant to a political group under section 9 of the Act shall be made in accordance with the wishes of that group.
- 6.4 No appointment of an assistant to a political group under section 9 of the Local Government and Housing Act 1989 shall be made until the Council has allocated such a post to each of the political groups that qualify for one.
- 6.5 No post as an assistant to a political group under section 9 of the Local Government and Housing Act 1989 shall be made in respect of any party group which does not qualify for one under that Act.
- 6.6 Determination of qualification for posts under section 9 of the Local Government and Housing Act 1989 shall be the responsibility of the Monitoring Officer.
- 6.7 No more than one post as a political assistant shall be allocated to any one political group.

7. Suspension

The Chief Executive, the Chief Finance Officer, and the Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months beginning on the day on which the suspension takes effect.

8. Disciplinary action

- 8.1 No disciplinary action to dismiss may be taken in respect of the Chief Executive, the Director of Corporate Services (s.151 officer)) or the Monitoring Officer except after having taken into account any advice, views or recommendations of a panel, the conclusions of any investigation and any recommendations of the relevant officer i.e. as set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 8.2 **Involvement of Councillors.** Subject to paragraph 8.1 above in the case of the Monitoring Officer, Councillors will not be involved in the disciplinary action against any officer at or below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

9. Dismissal

- 9.1 Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Council's Chief Executive, the Council must approve that dismissal before notice of dismissal is given to him/her.
- 9.2 Where a committee or a sub-committee of the Council is discharging, on behalf of the Council the function of the dismissal of any officer referred to in paragraph 6.1(a-f) or the Monitoring Officer, at least one member of the Cabinet must be a member of the committee or sub-committee.
- 9.3 Notice of the dismissal of an officer referred to in paragraph 6.1 must not be given by the dismissor until:
- (a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer ; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii) notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
 - (ii) the Proper Officer has notified the dismissor that no objection was received by him within that period from the Leader; or
 - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 9.4 Termination payments – for Chief Officers, termination payments are subject to approval by the Standards General Purposes Committee and all severance packages over £100,000 shall be reported to full Council for approval.

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Committee: Full Council

Date: 16th September 2020

Agenda item: Appointment of Director of Children, Schools and Families; and Assistant Director of Public Protection

Wards: All

Subject: Chief Officer Recruitment

Lead officer: Ged Curran, Chief Executive

Lead member: Councillor Stephen Alambritis, Leader of the Council and Chair of the Appointments Committee

Contact officer: Liz Hammond, Head of HR

Recommendations:

- A To note and approve the recruitment salary package of £96,840 to £101,193 per annum for the post of Assistant Director, Public Protection as required by the Council's pay policy statement.
 - B To note and approve the commencement of the recruitment process for a replacement Director of Children, Schools and Families within the current Merton Director salary package of £108,564 to £125,829 per annum, plus market supplement payable at such a rate as the Chief Executive, in consultation with chair of the Appointment Committee considers reasonable and necessary in order to attract excellent candidates.
-

1. Purpose of report and executive summary

- 1.1 The Council's pay policy statement requires that remuneration packages over £100k have approval of full council. This report seeks authority to recruit to two important posts at levels above that amount.

2. Details

Assistant Director, Public Protection

- 2.1 The post of Assistant Director, Public Protection has been vacant since June 2018. The post is currently being covered by an interim officer.
- 2.2 The Director of Environment & Regeneration intends to recruit to this role on a permanent basis.
- 2.3 The role is graded Management grade 5, for which the current salary ranges from spinal column point (scp) 16 with an annual salary of £94,248 to scp 17 with an annual salary of £98,484.
- 2.4 However with the recently agreed pay award of 2.75%, this would increase the salary range to £96,840 - £101,193.

2.5 As the upper salary point is now in excess of £100k, approval is sought to enable the flexibility to offer the upper salary point if an exceptional candidate is found during the recruitment process.

2.6 The required approval is in line with the requirements of the Council's pay policy statement.

Director of Children, Schools & Families

2.7 Merton's Director of Children, Schools & Families is leaving towards the end of the calendar year.

2.8 The post is a statutory role defined by Section 18 of the Children Act 2004, which requires every local authority responsible for children's services to appoint a Director of Children's Services (DCS). The DCS has professional responsibility for the leadership, strategy and effectiveness of local authority children's services and, as such, this post should be at first tier officer level. The DCS is responsible for securing the provision of services to address the needs of all children and young people, including the most disadvantaged and vulnerable, and their families and carers.

2.9 The role is a challenging one requiring the post holder to have complex specialist skills and to be able to lead in an ever-changing environment such as local government. The current job description and person specification are attached at Appendix 1.

2.10 The current (2020) Merton director pay scale ranges from £108,564 to £125,829 per annum. The post holder is currently in receipt of a market supplement of £20,820 per annum, taking the total salary package to £129,384 to £146,649 per annum. The post was last recruited to in early 2018 and it is possible that these rates may no longer be sufficient to attract a suitably qualified candidate. Merton is ambitious for its children and schools and would want an experienced and exceptional candidate to take this critical role. It is therefore being recommended that the Chief Executive be given some flexibility as to the exact level of the market supplement to offer, having taken advice from the executive search agents appointed in accordance with paragraph 2.11 below and consulted the Chair of the Appointments Committee.

2.11 The recruitment campaign for the post of Director of Children, Schools & Families will be handled by executive search agents, who are yet to be appointed. The recruiters will be asked to provide evidence of their track record of successfully recruiting to senior Children's Services roles.

3. Alternative options

Assistant Director, Public Protection

3.1 To continue with the current interim arrangement.

Director of Children, Schools & Families

3.2 The Director of Children Schools & Families is a statutory officer and the Council has a duty to appoint to this post; therefore, there is no alternative option other than to recruit a replacement.

4. Consultation undertaken or proposed

Assistant Director, Public Protection

- 4.1 The appointment of the Assistant Director, Public Protection is an officer appointment.

Director of Children, Schools & Families

- 4.2 An appointments committee will be set up and there will be involvement from stakeholders in the process. The precise nature of this will be scoped further once the executive search agents have been appointed.

5. Timetable

Assistant Director, Public Protection

- 5.1 Recruitment to the post of Assistant Director, Public Protection will commence once approval to the salary package is received.

Director of Children, Schools & Families

- 5.2 If approval is given, then the process of selecting an executive search agent will be commenced. An interim arrangement may be considered.

6. Financial, Resource and Property Implications

Assistant Director, Public Protection

- 6.1 There is provision in the Environment and Regeneration's budget to recruit to the AD Public Protection role at the salary set out in this report.

Director of Children, Schools & Families

- 6.2 The 2020/21 salary budget allocation including on-costs for the Director of Children, Schools & Families post is £167,552 to £189,909. This may need to be reviewed depending on the decision made on the market supplement to be applied.
- 6.3 The executive search agent's fee is to be agreed, once the supplier has been decided. Additional costs will be for advertising, technical assessor fee and psychometric assessment costs, which will be dependent on the number of shortlisted candidates and assessments will be used. These costs will be paid from CSF budgets.

7. Legal and statutory implications

Assistant Director, Public Protection

- 7.1 The Council's pay policy statement requires that recruitment packages over £100k have approval of full council.

Director of Children, Schools & Families

- 7.2 This post is covered by the Employee Procedure Rules (part 4H) of the constitution. The Appointments Committee is responsible for appointing to the Director's post. If the changes proposed elsewhere in this agenda are approved, the Appointments Committee may elect to appoint a subcommittee for this purpose. An offer of appointment cannot be made by until the Appointments Committee (or subcommittee) has notified the Chief Executive of the name of the person to whom the Committee wishes to make an offer. The Chief Executive is then required to notify every member of the Cabinet. The appointment will only be made where no material or well-founded objections from the Cabinet have been received. This process should be built into in the recruitment planning timetable accordingly.
- 7.3 In all other respects, the process must comply with the Council's recruitment procedure.
- 7.4 As with all appointments of officers and staff, both appointments must be made on merit in accordance with section 7 of the Local Government and Housing Act 1989.

8. Human rights, equalities and community cohesion implications

- 8.1 The contents of this report are designed to ensure that the Council's processes are human rights and equalities compliant.

It is unlawful to discriminate on grounds of gender, race, disability, age, religion and belief and sexual orientation. This refers to both direct and indirect discrimination. In effect the process has to be evaluated against three tests (1) intention (2) method (3) effect. Where there is an **intention** to discriminate on any of the prohibited grounds, this would be unlawful. Where there is no such intention but the recruitment **methods** used are discriminatory, then the outcome may be open to challenge. Where the intention and method are sound but the **effect** is shown to have disproportionate effect on a particular category of applicant then the outcome may be open to challenge.

9. Crime and Disorder Implications

- 9.1 None

10. Risk management and health and safety implications

- 10.1 The Appointments Committee will be invited to satisfy itself that the procedures operate as designed.

11. Appendices – the following documents are to be published with this report and form part of the report

- 11.1 Appendix 1 – Job Description and Person Specification

Appendix One – job description and person specification



LONDON BOROUGH OF MERTON

CHILDREN, SCHOOLS & FAMILIES DEPARTMENT

JOB DESCRIPTION

POST TITLE: Director of Children, Schools & Families

Grade: Directors

DIVISION/SECTION: Director's Office

Location: Civic Centre

Responsible to: Chief Executive

Responsible for: Children Social Care and Youth Inclusion; Education Access,

Opportunity & Inclusion; Early Years; Educational Services, Inspectors, Consultants & Governor Support; Online Research Services; Youth Offending Team; Youth Service and such other matters as may be added or changed from time to time.

Post number: M3007815

Date: November 2017

1. MAIN PURPOSE

- To be professionally responsible and accountable for the effectiveness, availability and value for money of the Council's statutory children's services and functions, specifically:
 - the Council's functions in its capacity as a local education authority under the Education Acts except certain functions relating to further education, higher education and adult education;
 - the Council's social services functions within the meaning of the Local Authorities Social Services Act 1970, insofar as they relate to children, and the Council's functions for children and young people leaving care;
 - any health related functions exercised by the Council on behalf of an NHS body under section 31 of the health Act 1999, insofar as they relate to children; and
 - the Council's functions as a children's services authority as set out in the Children Act 2004, in particular building and leading the arrangements for inter-agency co-operation.

- To ensure the development, implementation and evaluation of strategies for the provision of service and support that are responsive to client needs and are sufficiently dynamic to respond to changes in governmental direction and legislative change.

- To manage the provision of quality services that reflect the Authority's core values.

- To participate in the corporate management of the Authority.

2. MAIN DUTIES AND RESPONSIBILITIES

Generic

- To participate in the corporate management of the Authority and to contribute to the preparation of both short and medium term plans for the Authority in close co-operation with others as required.

- To evaluate the performance of the Department against stated objectives, developing performance measures and ensuring feedback to staff on the department's performance in meeting targets and objectives.
- To ensure the development of a departmental organisational structure that meets changing service needs. To promote sound departmental management practices and to be responsible for the effective recruitment and retention, motivation and development of staff within in effective industrial relations climate.
- To ensure the development of effective working relationships between the department and others across the Council. To lead, and participate actively in inter-departmental working groups, as required.

Specific

- To provide accurate and timely advice to the Council, its committees, elected members, the Chief Executive and Directors, on developments, trends in the areas of children, schools and families services and all matters relating to the strategic planning of those services and their resourcing.
- To develop, implement and evaluate policies and programmes for the provision of cost-effective, high-quality services, which accord with the Council's policy objectives and meet both statutory and local needs.
- To ensure that appropriate arrangements are in place to promote cooperation between the Council and its partner organisations to improve the well-being of children and young people in the Borough.
- To make arrangements to ensure that the Council's functions are discharged having regard to the need to safeguard children and young people and promote their welfare.
- To maintain and develop productive links with schools headteachers and governors based on mutual respect, shared goals and shared responsibility for the improvement of standards within the Borough.
- To ensure that the Authority's statutory responsibilities in regard to such things as the provision of the school places, access, monitoring of standards and statements of children with special needs are met.
- To consider the establishment of, maintain and operate a database of basic information on all children and young people in the Borough or if another body has the statutory duty to create a database or databases, to participate in its operation.
- To chair the local safeguarding children board (LSCB) to coordinate board members' activities for the purpose of safeguarding the welfare of children and young people in the Borough.

- To promote the educational achievement of looked after children.
- To provide the Secretary of State, if so directed, with information on individual children and young people.
- To coordinate statements of proposed action in the light of a Joint Area Review report and to exercise a key role in monitoring and evaluating implementation of the proposed action (subject to consultation and the laying of Regulations).
- To create and sustain a framework for the effective delivery of services to children and young people through leadership and by creating the conditions for others to perform and to innovate.
- To lead the cultural, workforce and other changes necessary to secure the transformation of children's services.
- To lead the transformation of children's services by creating a sharper focus on prevention and early intervention, while strengthening protection and improving achievement and attainment for all children and young people.
- To build and lead robust partnership arrangements under which public, private voluntary and community sectors work effectively together in relation to the planning, commissioning and provision of services which improve outcomes for children and young people and place them at the centre of service provision.
- To harness the distinctive contributions of children, young people and their families and carers in designing and delivering services and in evaluating how effectively services improve outcomes.
- To direct the operation of the Council's contracted out and commissioned children's services provision through the establishment of suitable arrangements for performance management arrangements across all children's services.
- To ensure that services are developed in close consultation with departments, the community, local action groups and external agencies and to promote public understanding of the Council's policies in order to facilitate their effective implementation and wider credibility. To develop effective relationships with the private and voluntary sectors and to encourage joint development initiatives wherever appropriate.
- To represent the Authority to external agencies such as Government Departments, Local Authority Associations, private developers, etc to develop effective relationships to advance the Council's objectives.
- To ensure the effective implementation of the Council's Equal Opportunity and Health and Safety policies in all aspects of the Department's work.

- To act as nominated deputy in the absence of the Chief Executive and to undertake any other duties as directed by the Chief Executive.
3. The duties, roles and responsibilities of the post and the methods of working may be amended from time to time by the Chief Executive.



LONDON BOROUGH OF MERTON

CHILDREN, SCHOOLS & FAMILIES DEPARTMENT

PERSON SPECIFICATION

POST TITLE: Director of Children, Schools & Families

Grade: Directors

Date: November 2017

1. Knowledge

- Educated to degree level and/or full relevant professional qualification, with evidence of continuous professional development.
- An understanding of the legislative framework governing the work of the department. Understanding of issues impacting on service delivery within an urban, multi cultural environment.
- A clear understanding of the workings of local government and the wider environment in which it operates.

2. Skills

- Ability to demonstrate a clear vision of the future for Local Authority children, schools and families services and the challenges facing those services in the short and medium term.
- Well developed analytical skills and proven ability of setting/achieving strategic objectives through performance management and of evaluating and achieving service quality.
- Ability to communicate effectively, negotiate and network through highly developed written, oral and presentation skills.
- Ability to develop innovative solutions whilst maintaining continuity of services through setting of clear goals/targets.
- Ability to lead, motivate and enthuse individuals and teams within a rapidly changing environment.
- Ability to work effectively within a political environment and to manage the member/officer interface.
- Commitment and ability to implement the Council's Equal Opportunities policies in employment and services.
- Commitment to working in partnership with a wide range of bodies both internally and externally.

3. Experience/Training

- Significant senior management experience in the provision of public sector children care and/or education services within a multi-racial urban community. Experience of participation at senior management level in the corporate affairs and decision making of a large complex organisation.
- A successful track record and background of consistent achievement at senior management level (second tier or above) in a local authority or other large complex organisation.
- Experience of managing, motivating and developing a multi-disciplinary workforce and harnessing the talents of employees at all levels.
- Experience of successfully leading management of change within a service setting.

- Experience of working in co-operation and partnership with a wide range of internal and external bodies including statutory agencies/organisations.
- Experience of having successfully managed substantial budgets through rigorous control procedures, as well as delivering budget options within a corporate framework.
- Experience of establishing and implementing business planning processes and performance management systems to ensure appropriate and cost effective service delivery.

4. Others

- Successful Enhanced Disclosure and Barring Service (DBS) check.