

RECRUITMENT OF STATUTORY OFFICERS
WDA/61/08

Recommendation

That:

1. In order to meet the Authority's legal obligations Members are asked to consider the desirability, or otherwise, of appointing a Chief Executive of a constituent council to the position of Clerk to the Authority.
2. Members approve the recruitment process for statutory officers detailed in paragraph 5
3. Members are asked to agree to the interim measures for the provision of its statutory officers in paragraph 6 of this report.

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RECRUITMENT OF STATUTORY OFFICERS
WDA/61/08

Report of the Director

1. Purpose of the Report

- 1.1 To instigate a course of action that ensures the Authority complies with its obligations for the provision of statutory officers.

2. Background

- 2.1 The Authority has statutory obligations to appoint a Treasurer, Clerk and Monitoring officer. These obligations and the factors that members are required to consider in making the appointments are detailed in legal advice from Eversheds LLP in Appendix 1.
- 2.2 As Members are aware the Authority's current statutory officers have given three months notice resigning from their positions which will take effect as follows:

Treasurer	28 th November 2008
Clerk	14 th November 2008
Monitoring Officer	28 th November 2008

The current officers have been made available to the Authority by St Helens Council under section 113 of the Local Government Act as detailed in Appendix 1 (5.2).

- 2.3 In the top level structure review of the organisation WDA04/07 the Authority recognised the proposals in that report as the first phase of the Authority's review of the management team.

3.

Merseyside Waste Disposal Authority
17th October 2008

- 3.1 The Authority's current position therefore allows it to continue with the phased review of its management team in order to ensure that it is fit for purpose. The need for ongoing review is of increased importance as the Authority moves forward with fundamentally changed waste management infrastructure in a rapidly changing legislative environment.
- 3.2 This will also allow the Director to address the issue of "Senior officer and statutory officer roles and responsibilities and associated job descriptions" which was identified as a governance issue in the "Annual Governance" statement WDA25/08.
- 3.3 In respect of the role of Clerk the legal advice received makes particular reference to the need to consider the desirability of appointing a Chief Executive of a constituent District council.
- 3.4 The role of Clerk has no defined function in statute and currently no Job Description or defined role in the Authority's procedural rules.
- 3.5 However members will be aware that the current post holder has undertaken a liaison role with Leaders and Chief Executives.
- 3.6 The Directors Job Description includes liaising with Districts and responsibility for all the operations of the Authority. This is in accordance with the CIPFA (Chartered Institute of Public Finance Accounting) guidance on governance which recommends:

"Make a Chief Executive or equivalent responsible and accountable to the Authority for all aspects of operational management".

"Set out a clear statement of the respective roles and responsibilities of other Authority members (non executive members), members generally and senior officers".
- 3.7 The lack of clarity that is associated with the statutory officers roles may have been what was alluded to in the 4P's Gateway Review of the Authorities procurement which reported that:

"There does, however, appear to be some confusion, accentuated by nomenclature, in regard to certain team members' roles and responsibilities"

4. Recruitment Policy

- 4.1 There are no Job Descriptions or Person Specifications for statutory officers. Consequently the roles and accountabilities of the posts are undefined (Except as defined by legislation and the Authorities procedural rules).
- 4.2 The Authority has a recruitment and retention policy that fulfils its obligations under section 7 of the 1989 Local Government and Housing Act in that it provides an open and transparent methodology for recruitment on the basis of merit.
- 4.3 The policy requires that for each post Job Descriptions and Person Specifications are produced and that the posts are advertised externally with the exception of posts below tier 3 which must be advertised internally first.
- 4.4 In respect of selection of candidates the policy requires the pre determination of objective criteria and equal treatment of all candidates. Subsequently appointment is subject to the receipt of two written references and occupational health screening.

5. Recruitment Process

- 5.1 It is proposed that the Authority establishes a recruitment panel to appoint statutory officers. It is recommended that it is constituted of at least one member, the Director and an independent advisor.
- 5.2 Subject to Members approval of this process it is the Director's intention to appoint the North West Employers organisation to provide an independent advisor that can give an impartial external perspective on Statutory Officer candidates skills, abilities and experience, as part of the recruitment process. Advice will also be sought as to the most appropriate basis of appointment i.e. secondment / part time / full time.

5.3 In respect of the Treasurers role, consideration of the potential conflict of interest referred to in the legal advice and highlighted in CIPFA guidance will be necessary.

5.4 In respect of the role of Clerk, Members are asked to consider the desirability of and determine whether they wish to instruct the Director to include as part of the management review, the appointment of a constituent District Chief Executive in the role of Clerk.

5.5 It is proposed that utilising the above resources the Authority implement the timetable in Fig 1 for the recruitment of its statutory officers on a permanent basis

<p><u>Figure 1</u></p> <p><u>Phase 1</u></p> <ul style="list-style-type: none"> • Appoint Recruitment Panel • Appoint North West Employers • Review of roles and functions of senior management Statutory Officers • Develop senior management level structure job descriptions and person specifications including Statutory Officers. • Conduct grading review <p>Approval of Job Descriptions and Budget</p> <p><u>Phase 2</u></p> <ul style="list-style-type: none"> • Recruitment <p><u>Consultation</u></p> <ul style="list-style-type: none"> • Consultation with staff and Trade Unions at all stages. 	<p>November 2008</p> <p>Authority Meeting 29th November 2008</p> <p>December 2008</p>
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6. Interim Measures

- 6.1 As the permanent recruitment process will not be concluded prior to the date at which current statutory officers resignations become effective it is proposed that the Authority makes interim appointments to the statutory officer roles.
- 6.2 It is proposed that the Corporate Services Manager be appointed on a temporary basis to the role of Acting Clerk and likewise the Assistant Director Strategy and Resources as Acting Monitoring Officer supported by external legal services. However because of the need to appoint a Treasurer qualified through CCAB (Consultative Committee of Accounting bodies) the Director in consultation with the Chair and Vice Chair seek agreement from a constituent district council for the temporary secondment of an Acting Treasurer.
- 6.3 In light of the knowledge base of St Helens officers and that they are currently providing the Authorities support services it is proposed that the Director be instructed to make all reasonable endeavours to secure a secondment in the post of Acting Treasurer from St Helens in the first instance.

7. Risk Implications

- 7.1 The failure to appoint a Clerk, Treasurer and Monitoring Officer will place the Authority in breach of its statutory obligations.
- 7.2 As a significant governance issue accepted in the annual governance statement and in light of the increased scrutiny of the Authority due to the current procurement process, the adoption of this report's recommendations in respect of the recruitment process will address the identified risks.
- 7.3 The transparency provided by the implementation of the recruitment process and the subsequent clarity of officers roles will enable the Authority to ensure that its statutory duties have been met and in addition, senior officers have no ambiguity as to their contractual employment responsibilities.

8. HR Implications

- 8.1 The appointments detailed in 5.2 are subject to agreement and consultation with the officers concerned.
- 8.2 Human Resource implications for the permanent recruitment process will form part of the subsequent report to be prepared as detailed in (4) above.

9. Environmental Implications

- 9.1 None

10. Financial Implications

- 10.1 The management review and development of Job descriptions and personnel specifications can be met from existing staffing budgets.
- 10.2 The cost of Interim arrangements will be subject to negotiation and reported to members at the November meeting. The costs will be met from slippage in the establishment budget including reductions in support services costs from St Helens upon cessation of the provision of the current statutory officers.
- 10.3 The implementation of the interim arrangements and recruitment process will inevitably lead to an increase in expenditure over historical spend. The actual budgetary implications will be included in the November report.

11. Conclusion

- 11.1 The Authority has a statutory duty to appoint a Treasurer, Clerk and Monitoring officer and appointments should be made in accordance with the Authorities recruitment policies, statutory restrictions and based upon merit.
- 11.2 The need to follow an open and transparent recruitment process will require interim appointments to allow the authority to meet its statutory obligations.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.