

# Taunton Deane Borough Council

## Full Council – 23 July 2013

### West Somerset and Taunton Deane Joint Management and Shared Services Project - JOINT CHIEF EXECUTIVE PROPOSAL

#### Report of Councillor John Williams, Leader of Council

#### 1. Executive Summary

This report outlines a proposal that West Somerset Council (WSC) and Taunton Deane Borough Council (TDBC) move to a shared Chief Executive (Head of Paid Service) at the earliest opportunity.

This was considered at the Joint Members Advisory Panel on 25 June and at the 'All Member Briefings' held on 3 July 2013 in both Councils.

This report considers:

- i) The principle of sharing a Chief Executive; and if approved
- ii) Options for achieving this.

The report sets out my recommendations as Leader which I would urge the Council to unanimously support.

#### 2. Background

- 2.1 In February 2013, West Somerset Council and Taunton Deane Borough Council agreed to work together to prepare a business case for Joint Management and Shared Services arrangements.
- 2.2 A Project Team has been put in place to progress this with the ambition of delivering a business case for consideration by Full Council decision in October 2013.
- 2.3 The project has appropriate governance arrangements in place, with a Joint Project Board (JPB) and a Joint Members Advisory Panel (JMAP) both meeting monthly to review progress and share key developments.
- 2.4 Two 'All Member Briefings' have taken place in both Councils. The first providing an update on project progress, an overview of the project team,

an outline of the intended approach to developing the business case, notification of our intention to bid for Transformation Funding from the Government, and a contextual overview of our organisations and communities. The second dealt solely with the proposal for a joint Chief Executive.

### **3. Joint Chief Executive Proposal**

- 3.1 Whilst developing the business case as described above, it has become increasingly obvious to us as Leaders of the Councils that the sharing of a Chief Executive (role of Head of Paid Service) would be a positive development.
- 3.2 The financial savings are significant and this will be a key message of the more detailed business case that flows from this project. We have concluded that it makes sense to progress this issue in advance of the other aspects of the business case as this solution would work with or without the full scale implementation of Shared Management / Services.
- 3.3 We briefed the Project's Joint Member Advisory Panel on this on 25 June 2013 and then held 'All Member Briefings' in both authorities on 3 July 2013. West Somerset Council will consider this at their Full Council meeting of 22 July 2013.
- 3.4 We are asking Members to consider this decision now (ahead of the full business case) as it:-
  - Delivers savings for both Councils
  - Provides a clear message to the organisation, our communities and Government that we will progress savings from our senior management posts.
  - Can operate on a 'stand-alone' basis and therefore does not prejudice the consideration of the full business case – but allows for the implementation of joint management and shared service arrangements to be progressed "at pace".
  - Offers the opportunity to give clear strategic direction to both Councils as further funding cuts hit following the Spending Review.
  - Offers the opportunity to develop relationships with elected Members in both Councils and provides a single focus for the development of the project.
  - Adds weight to the Transformation Challenge Award Fund bid being made to Department for Communities and Local Government (DCLG).
- 3.5 Since discussing this proposal at JMAP we, as Leaders, have reflected on the choices we have on implementing a Joint Chief Executive position and have outlined this for consideration below. This clear choice is being given to Councillors in both Councils but I have made clear my recommended course of action.

- 3.6 This report now separates the issue of 'post' and 'post holder'. We want to first establish the appetite for having a Joint Chief Executive. Should this be supported, then we need to consider how this could be achieved.
- 3.7 In both options we acknowledge that the full business case will need to address the salary levels for all senior management posts and this may see some potential changes in salary levels but, where this occurs, this will need to be supported by market evidence. However, if option 2 is preferred, then the salary level for the Joint Chief Executive will need to be considered in advance of the recruitment, and decision on the full business case.

#### **4 Operational Considerations - Joint Chief Executive Post**

- 4.1 We have asked both Chief Executives to consider the feasibility and impact of having a Joint Chief Executive post. Their feedback below is based on learning from Joint Chief Executive colleagues, other Local Authorities involved in joint arrangements and from their own knowledge of both Councils including the way their current roles are delivered. They have also been consulted on both the principle and the "process" and their detailed consultation responses are contained in the confidential Appendices A and B.
- 4.2 They have concluded that:-
- This proposal is an entirely realistic proposition and the benefits set out by the Leaders are real. It saves money and it will enable the two organisations to work better and faster together irrespective of future decisions on wholesale change on joint management and shared services.
  - This is a very different job. Being a joint Chief Executive isn't one person doing two jobs in the way they were done before. The key difference is that the role is much more strategic and it will be necessary to step away from some of the day-to-day detail.
  - It is essential that the joint Chief Executive is perceived to be full time for both Councils, their partners, communities and local businesses.
- 4.3 They have the following observations for Members, staff and other stakeholders to consider when debating this proposal:-
- There will be an overall additional time commitment falling on the joint Chief Executive as a result of working in two Councils. This is manageable but will be challenging and the post holder will need the support of Members and staff to make the arrangement a success. The further development of joint management and shared services will undoubtedly help this as it will enable the joint Chief Executive to more readily change structures, systems and ways of working to enable the

overall joint arrangements to work as effectively as possible. Having said that the arrangement can work stand alone and be separate to other changes, albeit that the personal challenges to the joint Chief Executive to perform to the highest level will be greater.

- This is a different job; the proposal is not to create a part time Chief Executive for two Councils. Whilst time allocation will be important to be “fair”, the 50:50 cost allocation does not mean that the joint Chief Executive will rigidly be in one authority for two and a half days and vice versa. In fact the post holder could be working in one authority but doing work for the other or for both. Nor does it mean if the post holder is working in one authority they are not available to the other. Technology and Personal Assistant (PA) arrangements will help deliver the perception that the role is full time in both Councils and the reality that the post holder can be as responsive as possible to both Councils and its customers. Having said that, physical visibility and availability will have to change. The joint Chief Executive will need to use their judgement and carefully prioritise and place themselves where they are most needed at any point in time.
- The Chief Executives both have strong teams around them and this will be critical in ensuring substitution and delegation is effective. There will be an impact on Corporate Management Team (CMT) colleagues, it is likely that they may be required to do additional work, take on new challenges or take on extra responsibility as a consequence of this proposal. It is pleasing to report that the proposal has the “in principle” support of both management teams. Other changes to governance and systems will also be helpful and the Councils may wish to review delegation arrangements to ensure the joint Chief Executive can get on and manage the organisations and operations in the most effective and efficient way possible, without negating Member involvement in policy issues that are important to them.
- The relationship with the Leaders, Executive Councillors and all Members will be very important. The learning to date clearly shows that where the relationships are actively and positively managed, the arrangements have greater chances of success. Building the relationship between both sets of Members, whilst protecting democratic differences, has also been shown to be very helpful not just to the joint Chief Executive in the smooth running of the Councils, but also for the Members themselves. Informal meetings can help build trust and could lead to joint working where appropriate. One of the biggest risks is either Council not feeling they are getting their “fair share” of the joint arrangements and as such the right culture, environment and relationships that enable concerns to be articulated and discussed as early as possible. The Members must be able to trust and work with each other.

4.4 Taking all of the above into account, the Chief Executives are firmly of the

view that this proposal is a good opportunity for both Councils. The proposal can be made to work in isolation of further organisational change. Having said that all of the learning to date from the thirty plus authorities that are part of joint arrangements is that the greatest overall benefits to the Councils and their customers ultimately accrue from the further joining up of management and the sharing of services. This process is made so much easier by the initial and early joining up of the Chief Executive post.

## **5. JMAP Feedback**

5.1 The Panel discussed our proposal on 25 June 2013 and supported our request to progress to a Full Council decision.

5.2 They made requests that the following issues were clarified in the Full Council papers:-

Further details of the S113 Agreement / or any Memorandum of Understanding (MOU) that may be required

Details of arrangements for the performance appraisal of the shared Chief Executive

5.3 The Local Government Act 1972 (S113) allows a local authority to enter into an agreement with another authority to place its officers at the disposal of the other authority, subject to consultation with the staff concerned. Staff that are made available under such an arrangement are able to take binding decisions on behalf of the body at whose disposal they are placed, although they remain an employee of their original authority for employment and superannuation purposes.

5.4 This report recommends that, should members approve the principle of a Joint Chief Executive and approve Option 1, the responsibility be delegated to the respective Monitoring Officers to draw up the appropriate agreement for sign off at JMAP. Appendix C gives an example list of the headings that such an agreement may include.

5.5 As set out in 5.2 above JMAP also requested details of the performance appraisal process that would be put in place for the Joint Chief Executive. Guidance on appraisal arrangements for Chief Executives is set out in the Joint Negotiating Committee (JNC) for Chief Executives Conditions of Service.

5.6 West Somerset Council have already put in place a scheme which was agreed by the Council after taking advice and support from the Chief Executive at South West Councils and we ourselves have been taking advice on a scheme. This report recommends that a draft scheme is presented to JMAP for consideration.

## 6. Member Briefings Feedback

6.1 'All Member briefings' took place at both West Somerset and Taunton Deane on 3 July 2013 and the proposals and options set out in this report were explained to members in more detail.

6.2 A range of issues were raised at these briefings and these included:

- Whether, should WSC choose to retain their current Chief Executive for a limited period to safely manage the handover of key projects, a contribution could be made by TDBC;
- Clarity on the role of Chief Executive;
- Consideration of performance based pay for the Chief Executive;
- Clarity on whether both posts are redundant if Option 2 is preferred;
- A request for clear recommendations from the Leader of each Council and also a set of recommendations which closed down the potential for this to keep being reconsidered should the two Councils make different decisions;
- A request to concentrate on jobs and roles and depersonalise the issue.

6.3 Section 8 of this report deals with the financial implications of these proposals but does not include a contribution from Taunton Deane for West Somerset retaining their current Chief Executive in an alternative role as this relates to work not covered by the Joint Chief Executive decision. This is a matter for West Somerset Council to consider.

6.4 The role of Chief Executive in local government is well defined and set out below is the definition as contained in JNC Terms and Conditions of Employment. With regard to the use of performance related pay then this is something that would be reviewed if members decide to progress with option 2 and, if moving forward with option 1, could be reviewed as part of the business case.

The term "chief executive" means the officer who is the head of the council's paid service. The duties and responsibilities of the post shall be determined by the individual employing authority. They shall include the statutory responsibilities of the head of the paid service, and such other duties as determined by the authority, which should include the following:-

(i) Responsibility for:

(a) leading the management team or equivalent, in particular in securing a corporate approach

(b) securing the provision of advice on the forward planning of objectives and services

(c) ensuring the efficient and effective implementation of the council's programmes and policies across all services and the effective deployment of the authority's resources to those ends.

For these purposes the chief executive has authority over all other employees of the council.

(ii) Advising the council, its executive and its committees on all matters of general policy and all other matters upon which his or her advice is necessary, with the right of attendance at all committees of the council and all subcommittees and working parties.

(iii) Advising the leader or elected mayor of the council, or where appropriate the party group leaders, on any matter relevant to the council's functions.

(iv) Representing and negotiating on behalf of the council on external bodies and networks.

(v) Advising or making suitable arrangements for advising the Lord Mayor, Mayor or Chair of the council on all matters within the duties of that office.

6.5 Redundancy is set out in employment legislation as:-

### ***Section 139 Employment Rights Act 1996***

Apply the definition of redundancy given by Section 139 Employment Rights Act 1996:

"... an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to:

- the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee was employed or
- the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished or are expected to cease or diminish".

As has been set out in this report the creation of a Joint Chief Executive is substantially different to a stand alone post and those posts at Taunton Deane and West Somerset will no longer exist.

6.6 In developing our reports we, as Leaders, have attempted to provide the clarity on the decisions that need to be made to assist members.

## 7. Implementation Choices

- 7.1 Having reflected on the feedback we have had, both during and since the JMAP meeting of 25 June 2013 we now feel it is appropriate to offer Councillors a choice of implementation routes. Our reasons for doing this (including openness and transparency) were explained at the Member Briefing sessions held on 3 July 2013
- 7.2 Assuming the principle of having a Joint Chief Executive post is supported, there are two ways in which we can believe this can be achieved.
- 7.3 **Option 1** - Under the auspices of a s113 Agreement (where West Somerset would make their CEO redundant and ask to share the services of TDBC's existing CEO);
1. WSC and TDBC agree to the principle of a Joint Chief Executive position.
  2. WSC Chief Executive post declared redundant and the post holder given three months contractual notice with an effective last day of service as Chief Executive of 23 October 2013.
  3. That WSC retain the services of the current Chief Executive in a temporary post of Executive Director (Interim) reporting directly to the Joint Chief Executive. This would be until the 31 March 2014 to allow for the details and responsibilities of non chief executive duties such as Hinkley Point, Strategic Finance and Sale of Capital Assets to be handed over in a safe and structured manner.
  4. That the WSC request to share current TDBC Chief Executive be agreed by TDBC and the current postholder to undertake this Joint Chief Executive role under a LGA 1972 S113 Agreement with effect from 24 October 2013. This would be on existing terms and conditions of employment but would be subject to review when the full Joint Management and Shared Service business case is considered.
  5. Detailed handover of key tasks will take place during the period 24 July and 23 October 2013 during which time the Chief Executive for West Somerset Council will delegate all responsibility for the development of the Joint Management and Shared Services Project to the Joint Chief Executive 'elect'.
  6. That if the Joint Management and Shared Services business case is approved in October 2013, this arrangement is made permanent. If the business case is not approved then the Joint Chief Executive arrangement remains until May 2015 when it can be reviewed again (by either Council) after the District Council elections



#### **7.4 Option 2 - (open recruitment)**

1. WSC and TDBC agree to the principle of a Joint Chief Executive position.
2. WSC and TDBC determine that the Joint Chief Executive should be made by appointment (complying with relevant Regulations, Constitutional requirements etc) which would see the following indicative timetable adopted:
  - i) Agreement of Joint Appointment Committee Members for both WSC and TDBC by 7 August 2013
  - ii) Determination of whether external resources for recruitment will be engaged to manage the appointment and advise elected members to be agreed by 7 August 2013.
  - iii) Sign off by Appointment Committee of Job Description, Person Specification and Recruitment Literature plus consideration of Joint Chief Executive salary\*\* by 31 August 2013
  - iv) External advertisement during period 1 to 21 September 2013
  - v) Assessment Centre during week commencing 30 September 2013
  - vi) Full Interviews held week commencing 7 October 2013
  - vii) Appointment ratified by Full Council meetings week commencing 14 October 2013.
  - viii) Expected start date on new Joint Chief Executive 1 January or 1 February 2014 based on being employed by TDBC and operating under a S113 Agreement.
3. These arrangements would be permanent arrangements.

\* If members determine that an external recruitment process is necessary then it is not expected that either current postholder would choose to apply.

\*\*This is required to be approved by Full Council before the advertisement is placed.

#### **8. Finance Comments**

- 8.1 The move to a Joint Chief Executive will save money. For modelling purposes it has been assumed that the salary for the new joint post will be that currently in place at Taunton Deane. The paper makes it clear that this will be reviewed in October 2013, when any change would need to be

modelled – either into the overall project business plan, or into each Council’s stand-alone plans.

8.2 The proposal delivers an ongoing revenue saving of £76,400 per annum. This saving materialises regardless of the implementation route (which of course impacts on the payback period).

8.3 As with all “invest to save” proposals, it is important that Councillors understand the payback period (how long it would take to return any up-front investment required to the Councils’ reserves). The initial investment for either option would need to come from the Councils Reserves. We are currently bidding to the Government for Transformation Funding and would aim to use this (if successful) to cover the termination costs, thereby preserving each Council’s limited Reserves for further transformation work.

8.4 Members should note that the payback position for the two implementation options in this paper show very different results.

8.5 **Option 1 s113 Agreement**  
**Revenue Savings Position (Joint CEO Commences mid Oct 13)**

	2013/14	2014/15	2015/16	2016/17
TDBC – Ongoing	(27,000)	(65,000)	(65,000)	(65,000)
WSC – Ongoing	(4,800)	(11,400)	(11,400)	(11,400)

In addition to the above, due to the handover period re key projects (Oct – March), West Somerset Council will incur additional one-off costs of £31,833 in 2013/14.

**Termination Costs**

The termination costs for this option would be shared 50:50 between the Councils (as would the ongoing cost of the Joint CEO).

The payback period for Taunton Deane Borough Council is nine months. This is well within the usual parameters of acceptable “invest to save” proposals.

The payback period for West Somerset Council is four years. This is within the usual parameters of acceptable “invest to save” proposals.

8.6 **Option 2 Recruitment**  
**Revenue Savings Position (Joint CEO Commences mid Oct 13)**

The ongoing savings are similar to those set out for Option 1, but with a later implementation date.

	2013/14	2014/15	2015/16	2016/17
TDBC – Ongoing	(10,800)	(65,000)	(65,000)	(65,000)
WSC – Ongoing	(1,900)	(11,400)	(11,400)	(11,400)

It has been assumed, for modelling purposes that the existing CEOs will leave in Jan and the new Joint CEO will start in Feb. There will be a handover period on West Somerset Council issues only – incurring additional one-off costs of £12,733 in 2013/14 for West Somerset.

### **Termination Costs**

The termination costs for this option would be funded by each individual Council.

The payback period for Taunton Deane Borough Council is almost two and a half years. This is also within the usual parameters of acceptable “invest to save proposals”.

The payback period for West Somerset is eight years. This is outside of the normal parameters of acceptable “invest to save proposals”. Members would need to consider the “value for money” issues associated with progressing this route and be clear that the operational and strategic advantages to be gained by following this option outweighed the financial disadvantages.

## **9. Legal Comments**

The legal implications are fully set out in this report. If Option 1 is agreed then an agreement will be required pursuant to s113 of the Local Government Act 1972

## **10. UNISON Consultation Responses**

The report has been provided to both UNISON Branches and Regional Office as part of the consultation. UNISON believe that Option 2 is not an acceptable option due to the costs that will be incurred and that they believe that the posts are not substantially different which should lead to a slot in of the remaining post holder where one has opted not to be considered.

## **11. Links to Corporate Business Plan**

- 11.1 The development of the Joint Management and Shared Services Project is a key element of our Corporate Business Plan and this report supports this aspiration as well as meeting the needs of the Medium Term Financial Plan to make revenue savings.

## 12. Environmental Implications

- 12.1 There are some minor environmental impacts linked to the creation of the Joint Chief Executive position if looked at solely from the perspective of each individual Council which relate to potential additional mileage between districts.
- 12.2 This mileage can be mitigated against through new ways of working, technology etc and the reduced mileage from the Joint Chief Executive attending county and regional meetings can be offset.

## 13. Community Safety Implications

- 13.1 There are no community safety implications associated with this report.

## 14. Equalities Impact

- 14.1 There are no adverse equality impacts identified.

## 15. Risk Management

<b>Risk</b>	<b>Consequence</b>	<b>Probability</b>	<b>Impact</b>	<b>Treatment</b>
Joint Chief Executive arrangements not supported by changes to working practices, member interaction etc	Ineffective support from Chief Executive and vice versa from elected members damages service delivery, reputation etc	3	3	Review of working arrangements, constitution etc
New Joint Chief Executive arrangements not fully supported if approved.	Damage to reputations of Councils, damage to Joint Management and Shared Services Project.	3	2	Review of working arrangements, constitution etc
Joint Chief Executive put in place through Option 1 and necessary skills not available.	Joint Chief Executive arrangements fail to work damaging future arrangements and credibility.	1	3	Mentoring and support from LGA
Joint Chief Executive put in place through Option 2 increasing costs and causing delays.	Delays to integration plus significant loss of knowledge and capacity.  Also additional costs criticised  Staff morale impacted.	3	2	Project Plans to be re-evaluated and realigned.  Clarity on press coverage and responses.
New Joint Chief Executive proposals criticised with regard to costs and benefits.	Damage done to reputations of Councils; staff morale impacted	2	2	Process to be managed against agreed policies and procedures.

## **16. Partnership Implications (if any)**

- 16.1 This report goes to the very heart of our partnership aspirations. Not only with the West Somerset Project but also as a local authority capable of and willing to work in partnership to ensure that services are protected for the public.

## **17. Recommendations**

It is recommended that:-

- 17.1 Members approve the principle of sharing a Chief Executive with West Somerset Council.
- 17.2 Members delegate authority to the Monitoring Officer to draw up amendments to the Council's constitution and Scheme of Delegation to provide for the Authority working with a joint chief executive.
- 17.3 The Retained HR Manager be asked to develop, in consultation with the Chief Executive of South West Councils, a performance appraisal scheme for the Joint Chief Executive post for consideration by Joint Member Advisory Panel.
- 17.4 To implement recommendation 17.1 above members approve Option 1 (as set out in paragraph 6.2) as the process for achieving the shared Chief Executive, subject to West Somerset Council, at their Full Council meeting of 22 July 2013, having agreed the same principle and option process.
- 17.5 Members delegate authority to the Monitoring Officer to draw up an agreement pursuant to S113 of the Local Government Act 1972 with the Monitoring Officer of West Somerset Council for consideration by Joint Member Advisory Panel.
- 17.6 That should West Somerset Council, at their Full Council meeting of 22 July 2013 recommend Option 2 (open recruitment) then members will be asked to consider whether this is a viable option.
- 17.7 Members note the ongoing saving delivered from the Joint Chief Executive post and ensure the Councils medium term financial plans are updated accordingly.

AND EITHER

Option 1 - Approve a supplementary estimate of £46,100 to fund the termination costs associated with Option 1 (£34,575 from the General Fund Reserve and £11,525 from the HRA Reserve).

OR

Option 2 - Approve a supplementary estimate of £156,200 to fund the termination costs associated with Option 2 (£117,150 from the General Fund Reserve and £39,050 from the HRA Reserve); and

Approve a further supplementary estimate of £10,000 to fund 50% of the recruitment expenses that will be incurred (£7,500 from the General Fund Reserve and £2,500 from the HRA Reserve).

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# Appendix C

## Local Government Act 1972 S113 Agreement – Indicative Headings

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