

**CHIEF OFFICER EMPLOYMENT COMMITTEE
HELD ON 7 DECEMBER 2022
(FROM 5:00 PM TO 5:11 PM)**

PRESENT: Councillor Graham Swift in the Chair. Councillors Trevor Chapman, Paul Haslam and Ann Myatt.

Late Arrivals: None

Early Departures: None

01/22 - APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES:

Notification had been received that Councillor Trevor Chapman would act as substitute for Councillor Philip Broadbank and that Councillor Paul Haslam would act as substitute for Councillor Richard Cooper. An apology for absence had been received from Councillor Sue Lumby.

(5.01 pm)

02/22 - DECLARATIONS OF INTEREST: There were none.

(5.01 pm)

03/22 - EXEMPT INFORMATION: There was no exempt information.

(5.01 pm)

MATTER REFERRED TO COUNCIL

04/22 – LOCAL GOVERNMENT REORGANISATION NORTH YORKSHIRE –

HEAD OF PAID SERVICE: The Head of Legal and Governance submitted a written report in which approval was sought to enter into a redundancy settlement agreement with Wallace Sampson, the Council's Head of Paid Service (HoPS) and Chief Executive Officer. The report was submitted in the context that Harrogate Borough Council would be dissolved as a result of local government re-organisation and the post of the Council's HoPS would cease to exist as of 1 April 2023. Attached at Appendix 1 was the business case for seeking approval for a redundancy settlement which included an assessment of the proposed payment against the government's published statutory guidance on the making and disclosure of Special Severance Payments.

The North Yorkshire (Structural Changes) Order 2022 (SCO) provided for the establishment of a single tier of local government in the county of North Yorkshire from 1 April 2023. Harrogate Borough Council, along with the six other district councils, would be dissolved and a single council to be known as North Yorkshire Council would be created. The report set out the legal position in relation to the effect that re-organisation would have on the employment of the HoPS.

The Local Government Restructuring – Guidance on Staffing Issues dated June 2008 stated "*Any chief executive of a predecessor council for whom there was no suitable alternative post on transfer is likely to be made redundant. There is, however, nothing to prevent a chief executive (or other senior officer) of a predecessor council from reaching agreement with their existing employers on terms*

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of severance, if they wish to leave before the reorganisation date, though we would expect the agreement of the Implementation Executive or Shadow Council to be obtained, perhaps within the context of a local protocol on staffing issues.”

It was therefore proposed that a settlement be reached with the Chief Executive in the terms set out at paragraph 5.8. The proposed settlement was considered to represent value for money by ensuring that the Chief Executive remained in office and engaged to support the council in delivery of its services until 31 March 2023 and to support a smooth transition to the new authority. The proposal also provided that only payments reflecting the HoPS legal entitlement were made to the HoPS.

In presenting the report the Head of Legal and Governance (HoLG) reminded Members that it was for this committee to make recommendation to full Council, which would determine the matter when it met on 14 December 2022. The HoLG advised that the report and business case had been prepared with the benefit of external legal advice from Browne Jacobson. The business case and report had been provided in advance to the Council’s external auditors and North Yorkshire County Council as the continuing authority. Members of the committee had also been provided in advance with a copy of the Independent Person’s view on the report and recommendations.

The HoLG reported that NYCC’s position was that the Regulations were not well drafted which had led to genuine uncertainty about the rights of Chief Executives to transfer to a new council. However NYCC understood the wish for settlement agreements to be reached on the terms set out and were willing to accept the proposals, with the caveat that it ought to be possible for all leave to be taken prior to 31 March 2023.

The HoLG requested members note that the legal advice to HBC was that the Chief Executive would TUPE transfer to the new council as a matter of law on 1 April 2023, and that it would then be for the new council to make the Chief Executive redundant. If this were to be accepted by NYCC the result was likely to be financially the same as the proposal in the report (with the difference being that the dismissal for reason of redundancy would take place a few weeks after 1 April 2023 and be by the new employer being the North Yorkshire Council). The proposal in the report recognised this and was a practical and pragmatic solution which addressed the uncertainty created by the difference in legal views and avoided the risk of possible costly legal proceedings.

The Council’s Head of Finance and s151 Officer and the Head of People and Organisational Development, who had been consulted during preparation of the report, were both in attendance at the meeting.

RECOMMENDED (UNANIMOUSLY):

That (1) the Chief Officer Employment Committee recommend to full Council the proposed settlement terms set out at paragraph 5.8 of this report for approval and in doing so that the Chief Officer Employment Committee and Council note the business case at Appendix 1;

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(2) Council delegate authority to the Head of Legal and Governance to enter into a settlement agreement on these terms with the HoPS/Chief Executive;

(3) the proposed settlement payments be funded from the Corporate Projects reserve;

(4) the Chief Officer Employment Committee and Council note that the proposed payments are only those to which the HoPS/Chief Executive is legally entitled and that the business case has been prepared for transparency reasons and the statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England (“SSP”) has been considered;

(5) the Chief Officer Employment Committee and Council note that a copy of the business case at Appendix 1 has been provided to the Council’s external auditors and North Yorkshire County Council in advance of this report being published; and

(6) should Council be minded to approve the proposed settlement then Members note that North Yorkshire County Council’s consent can be sought to the payment through the section 24 process.

(5.02 pm – 5.11 pm)