

3rd JUNE 2019

STATUTORY OFFICERS

Purpose of Report

The report details proposed changes to the statutory officers of the Mayoral Combined Authority (“MCA”) required to meet the MCA’s statutory duties.

Recommendations

The MCA is recommended to approve:

1. the recruitment of a permanent Chief Finance Officer (see section 2.1 below);
2. the appointment panel for the recruitment of the Chief Finance Officer to be made up of the Mayor, The Vice Chair of the MCA, the Chair of the LEP and the Head of Paid Service as advisor;
3. the transfer of the finance function from SCC in to the MCA (see section 2.1 below);
4. the recruitment of an Interim Chief Finance Officer for the period from July 2019 until a permanent post holder is recruited;
5. the appointment of the Principal Solicitor and Secretary of South Yorkshire Passenger Transport Executive as Monitoring Officer of the MCA (see section 2.2 below);
6. the deletion of the post of Clerk to the MCA and delegate the functions of the Clerk to the Head of Paid Services and approve the Principal Solicitor making the consequential amendments to the constitution (see section 2.3 below);
7. the implementation of a recruitment process for the appointment of the Head of Paid Service to the end of the present Mayoral Term of Office (2022) (see section 2.4 below);
8. the appointment panel for the recruitment of the head of Paid Service to be made up of the Mayor, the Vice Chair of the MCA, the Chair of the LEP and a Local Authority Chief Executive as advisor
9. the current contract of the Head of Paid service be extended in the interim until the appointment of a new Head of Paid Service takes effect;
10. the appointment of 2 Non-Executive Directors of SYPTE (see section 2.5 below).

1. Introduction

- 1.1 The Mayoral Combined Authority (“MCA”) is required by law and Article 11 of its constitution to appoint:-
- i. a Head of Paid Service (s.4 Local Government and Housing Act 1989);
 - ii. a Chief Finance Officer (s.73 Local Government Act 1985); and
 - iii. a Monitoring Officer (s.5 Local Government and Housing Act 1989).
- 1.2 Since its creation in 2014 the MCA has utilised resources from its constituent councils to fill the Statutory Chief Finance Officer and Monitoring Officer roles. In addition the role of Clerk to the Authority has been provided by BMBC through its Chief Executive. This reflects the role which BMBC has been discharging in providing the Governance support function for the Combined Authority. This represents a continuation of the previous agreement between the Integrated Transport Authority and BMBC to provide governance support which transferred to the CA upon the dissolution of the ITA in 2014.
- 1.3 The Interim Head of Paid Services was appointed by the MCA at its meeting in June 2016 following a recruitment process. The appointment was not made for any specific duration but is the subject of a fixed term contract ending in June 2019.
- 1.4 This report seeks the MCA’s approval to new arrangements to
- i) recruit to the role of Chief Finance Officer;
 - ii) appoint the Principal Solicitor and Secretary of SYPTE to the role of MCA Monitoring Officer;
 - iii) delete the position of Clerk;
 - iv) recruit to the role of Head of Paid Services for a period that is co-terminus with the Mayor’s term of office;
 - v) bring the financial services function presently provided by Sheffield City Council (“SCC”) in-house; and
 - vi) appoint 2 new Non-Executive Directors of SYPTE.

2. Proposal and justification

2.1 Chief Finance Officer

The MCA is required by s.73 of the Local Government Act 1985 to have an officer responsible for the proper administration of its financial affairs (“s.73 Officer”). To date this role has been undertaken by the Executive Director of Resources at SCC. This was always intended as a temporary measure pending the full establishment of the MCA and the existing s.73 Officer has confirmed that it is no longer feasible to undertake this statutory role for the MCA as well as his substantive role within SCC, and that in his professional opinion the MCA should move to recruit a full time s.73 finance officer. The present s.73 Officer will step down no later than 19 July 2019.

An external review, sponsored by the current s73 officer and the Head of Paid Service has been undertaken to look at the requirements of the role and the options for recruitment. Given the close financial relationship between the MCA and PTE and the consolidation of the PTE accounts into the MCA the proposal put forward is to recruit a Chief Finance Officer for the SCR Group (MCA & PTE). The PTE presently has an interim Head of Finance and the recommendation is to restructure by recruiting to a joint role. This position will allow for the finance function to be developed into a shared MCA/PTE service with potential process

and staffing efficiencies, better staff development opportunities and use of shared systems etc. It is likely that the initial recruitment will need to be a interim/fixed term appointment to allow time for a full recruitment and selection process in due course.

At present the MCA's finance function is procured on a Service Level Agreement arrangement from SCC. SCC effectively dedicate 6 fte members of staff to the service. The MCA pays the full cost of this resource. Aligned to the recruitment of a s.73 Finance Officer it is proposed to end the main element of the SLA arrangement and transfer the main finance function into the MCA. This would constitute a service change for the purpose of the Transfer of Undertakings Protection of Employment Regulations 2006 (TUPE) and as such the SCC employees deployed on the finance function will transfer to the MCA on their existing terms and conditions. Where it is more efficient, due to economies of scale, elements of the finance function will still be provided by SCC e.g. treasury, tax and some systems support.

2.2 Monitoring Officer

Under s.4 Local Government and Housing Act 1985 the MCA must appoint a Monitoring Officer. At present BMBC's Monitoring Officer has been acting as Monitoring Officer for the MCA.

The Principal Solicitor and Secretary of SYPT (‘PSS’) has been supporting the current Monitoring Officer and been providing legal services for the MCA for 18 months as the legal support role for which the Monitoring Officer has overall responsibility has been progressively consolidated within the MCA Group. Legal Services are now provided on a shared support service basis managed by the PSS. The PSS is the appointed Data Protection Officer for the MCA. It is proposed to appoint the PSS as the MCA's Monitoring Officer with effect from July 2019.

It is now the appropriate time for the current Monitoring Officer to step down from the role at the same time as the current s.73 Officer.

The Monitoring Officer supports these proposals which will provide continuity for the MCA and satisfy the statutory duty of the MCA. The Monitoring Officer has offered to provide the PSS as their successor with any support required following his departure from the role.

2.3 Clerk

When establishing the MCA the role of Clerk was created. This role has been undertaken by the present Chief Executive of BMBC. Ms Terris departs BMBC at the end of May. As part of wider governance change the MCA is reducing its reliance on the governance unit within BMBC that services the joint authorities and will be taking responsibility for arranging and clerking meetings. BMBC will continue to provide support on a transitional basis to facilitate an orderly transfer. Given the departure of the present Clerk and the governance changes it is proposed to remove the role of Clerk and pass the functions delegated to the Clerk to the Head of Paid Services. These functions are as set out below but relate to publication of meeting papers. This Proper Officer role is the custodian of the decision making process appropriately supported by the Monitoring Officer and now rests appropriately with the Head of Paid Services role.

If deleted the Constitution will need to be updated to reflect the change.

<i>Section 100B (2)</i>	<i>Determination of those reports which should be available for public inspection prior to a meeting of the Authority, and any Committee of the Authority and those which are likely to be heard in private and consequently which should not be released to the public.</i>
<i>Section 100B (7)</i>	<i>Provision of documents to the press, additional to Committee reports.</i>
<i>Section 100C (2)</i>	<i>Preparing written summaries of proceedings.</i>
<i>Section 100D (1)</i>	<i>Making arrangements for lists of, and background papers to reports, to be made available for public inspection.</i>
<i>Section 100F (2)</i>	<i>Determination of documents disclosing exempt information which may not be inspected by Members.</i>
<i>Schedule 12 para 4 (2) (b)</i>	<i>Signature of Summonses to the Authority.</i>
<i>Schedule 12 para 4 (3)</i>	<i>Receipt of notices regarding addresses to which Summonses to meetings of the Authority are to be sent.</i>

2.4 Head of Paid Services

The MCA is legally obliged to appoint a Head of Paid Services (HOPS). The appointment of Dr Smith as the HOPS was approved by the MCA on the 20th June 2016. The contract securing Dr Smith's services expires in June 2019. It is recommended that a recruitment process is undertaken with a view to appointing a Head of Paid Service for a fixed term linked to the term of the Mayor. The recruitment panel will require the Mayor, the Vice Chair of the MCA and the Chair of the LEP as the Head of Paid Service is the principal advisor to both bodies. It is also proposed a Local Authority Chief Executive is a member of the panel to provide public sector Chief Executive expertise and experience to the panel. In the interim it is proposed that the current contract for the Head of Paid Service is extended until a new appointment takes effect. This would allow continuity for the purpose of delivering the Mayoral Combined Authority and LEP agenda's. This is particularly important given the changes to other Statutory Officers detailed earlier in this report. In addition, the MCA is in the process of changing the governance model (as approved by the MCA in January). The Mayor is supportive of this proposal.

2.5 Appointment of PTE Non-Executive Director

The MCA is responsible for appointing the Directors of SYPTE. By agreement, each constituent Council appoints one of its senior officers to be Non-Executive Directors. These Non-Executive Directors together with the 2 Executive Directors make up the SYPTE Executive Board. The previous representative from RMBC has left the Council and RMBC have nominated Mr P Woodcock, Strategic Director Regeneration and Environment to be their appointed Non-Executive Director.

In addition, it is recommended to appoint the Director of Programming and Commissioning at the SCR CA Executive Team as a Non-Executive Director in order to broaden the representation on the SYPTE Executive Board. The SYPTE Executive Board's role is being widened and it will be co-ordinating reporting from both the SCR and SYPTE to the MCA Thematic Transport Board. This broader representation on the PTE Executive Board will assist in this role.

3. Consideration of alternative approaches

3.1 Chief Financial Officer

It is a statutory requirement to have a s.73 Officer. The only alternative would be to utilise the services of an existing s.151 Officer from the Constituent Councils. The outgoing S.73 Officer from SCC does not believe this is now a feasible option due to the requirements of the role.

3.2 Finance Functions

The alternative is to keep provision with SCC. Given the change in s.73 Officer provision it is not considered appropriate for the officer cohort to be employed by SCC and line managed by the MCA s.73 Officer. Not transferring would mean the scope to have an SCR group finance function is reduced.

3.3 Monitoring Officer

It is a statutory requirement to have a s.5 Monitoring Officer. The alternatives are to designate another officer to this role or recruit a new officer to this role, neither option is considered as appropriate or as efficient.

3.4 Clerk

The alternative is to retain the position. It is not a statutory role although it discharges statutory proper officer functions and given the governance changes it is considered more appropriate and efficient to remove the post and transfer the proper office responsibilities to the Head of Paid Services.

3.5 Head of Paid Services

The alternatives are to appoint another office or retain the current contracted arrangements. Given the position on devolution, the Mayoral cycle, the agreed changes to governance that are being implemented (as approved by the MCA in January 2019) and the other changes to Statutory Officers detailed in this report, it is considered that the recruitment of the Head of Paid Services on a fixed term basis is essential for continued delivery.

3.6 Appointment of SYPTE Non-Executive Directors

The alternative is not to appoint. This would leave RMBC and the SCR CA not represented on the PTE Executive Board.

4. Implications

4.1 Financial

The changes recommended in this paper have a number of costs and savings associated with them. The precise financial implications will depend on the evaluated grade of the Chief Finance Officer post and any future efficiencies created by creating a joint finance function. There are savings created by the change in Monitoring Officer, the combining of Senior Finance roles and the deletion of the role of Clerk. Overall the proposals will be funded from existing MCA/PTE budgets.

4.2 Legal

The MCA is legally required to have the statutory posts as detailed in paragraph 1.1 above.

4.3 Risk Management

The MCA having appropriately experienced and qualified Statutory Officers and the proposed joint Chief Finance Officer mitigates risk.

4.4 Equality, Diversity and Social Inclusion

None arising.

5. Communications

5.1 None.

6. Appendices/Annexes

6.1 N/A

Report Author	Mr A Frosdick and Mr E Walker
Post	Monitoring Officer and S.73 Officer
Officer responsible	This must be the relevant Director of Service
Organisation	MCA
Email	
Telephone	

Background papers used in the preparation of this report are available for inspection at: 11 Broad Street West, Sheffield S1 2BQ

Other sources and references: