



Democratic Support

Plymouth City Council
Civic Centre
Plymouth PL1 2AA

Please ask for Nicola Kirby
T 01752 304867
E nicola.kirby@plymouth.gov.uk
www.plymouth.gov.uk/democracy
Published 07 May 2014

APPOINTMENTS PANEL

Thursday 15 May 2014

2.00 pm

Astor Room, Plymouth Guildhall, Plymouth

Members:

Councillors Mrs Aspinall, Mrs Bowyer, Darcy, Michael Leaves, McDonald, Penberthy and Vincent.

Members are invited to attend the above meeting to consider the items of business overleaf.

Tracey Lee

Chief Executive

APPOINTMENTS PANEL

AGENDA

PART I – PUBLIC MEETING

1. APPOINTMENT OF CHAIR AND VICE CHAIR

The panel will appoint a Chair and Vice-Chair for this meeting.

2. APOLOGIES

To receive apologies for non-attendance submitted by Panel Members.

3. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on the agenda.

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. MINUTES OF PREVIOUS MEETINGS (Pages 1 - 8)

To sign and confirm as a correct record the minutes of the meetings held on 25 April 2014 (am and pm), 30 April and 9 May (to follow) 2014.

6. INDEMNITY SCHEME FOR MEMBERS AND OFFICERS (Pages 9 - 12)

To update members on the indemnity scheme for members and officers.

7. EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the Panel is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

8. SENIOR MANAGEMENT RESTRUCTURE (EI) (Pages 13 - 20)

To receive an update on the Senior Management Restructure (to follow).

Panel Members are referred to the papers circulated on 25 April 2014 relating to individual consultation feedback (copy attached).

9. HEAD OF LEGAL SERVICES (EI) (Pages 21 - 42)

To consider whether to appoint to the post of Head of Legal Services.

Panel Members are referred to the papers circulated on 25 April 2014 relating to this item (copy attached).

10. ASSISTANT CHIEF EXECUTIVE (EI) (Pages 43 - 56)

To consider whether to appoint to the post of Assistant Chief Executive.

Panel Members are referred to the papers circulated on 25 April 2014 relating to this item (copy attached).

This page is intentionally left blank

Appointments Panel

Friday 25 April 2014

PRESENT:

Councillor Peter Smith, Vice Chair, in the Chair.
Councillor Penberthy, Vice Chair for the meeting.
Councillors Mrs Aspinall, Bowyer, Darcy and Parker (substitute for Councillor Evans).

Apologies for absence: Councillors Evans (Chair) and Jordan.

Also in attendance: Anthony Payne (Strategic Director for Place) on behalf of the Chief Executive and Bernadette Smith (Senior HR Adviser).

The meeting started at 9.30 am and finished at 12.30 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

80. **VICE CHAIR FOR THE MEETING**

In the absence of the Chair,

Agreed that Councillor Penberthy is appointed Vice Chair for this meeting of the panel.

81. **DECLARATIONS OF INTEREST**

There were no declarations of interest made by councillors in accordance with the code of conduct in relation to items under consideration at this meeting.

82. **MINUTES**

Agreed the minutes of the meeting held on 11 April 2014.

83. **CHAIR'S URGENT BUSINESS**

Members were advised that agenda item 8, Appointment of an Interim Assistant Director for Human Resources, Organisational Development and ICT was withdrawn.

84. **EXEMPT BUSINESS**

Agreed that under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

85. **SENIOR MANAGEMENT RESTRUCTURE - POTENTIAL ARRANGEMENTS (EI)**

Members were advised that a further meeting of the Appointments Panel was being held that afternoon for interviews for the posts of Assistant Chief Executive and Head of Legal Services.

INTERIM POSTS

86. **Appointment of an interim Strategic Director for Transformation and Change**

Members interviewed candidates for the post of interim Strategic Director for Transformation and Change and received a schedule of daily rates as comparators of the market rate for the post.

Agreed that David Trussler is appointed to the role of interim Strategic Director for Transformation and Change, for a period of six months, on a daily rate of £812 per day (in line with the City Council's Pay Policy Statement), pending a recruitment process to the permanent role.

87. **Appointment of an interim Assistant Director for Human Resources, Organisational Development and ICT (EI)**

This item was withdrawn.

88. **Appointment of an interim Assistant Director for Street Services (EI)**

Members interviewed a candidate for the post of interim Assistant Director for Street Services and received a schedule of daily rates as comparators of the market rate for the post.

Agreed that Simon Dale is appointed to the role of interim Assistant Director for Street Services, for a period of six months, on a daily rate of £652.80 per day plus VAT and expenses (in line with the City Council's Pay Policy Statement), pending a recruitment process to the permanent role.

89. **Appointment of an interim Head of Portfolio Office (E1)**

Members interviewed a candidate for the post of interim Head of Portfolio Office and received a schedule of daily rates as comparators of the market rate for the post.

Agreed that Sue Thomas is appointed to the role of interim Head of Portfolio Office, for a period of six months, on a daily rate of £644 per day (in line with the City Council's Pay Policy Statement), pending a recruitment process to the permanent role.

This page is intentionally left blank

Appointments Panel

Friday 25 April 2014

PRESENT:

Councillor Penberthy, in the Chair.

Councillor Mrs Aspinall, Vice Chair.

Councillors Mrs Bowyer, Darcy, Michael Leaves, McDonald and Vincent.

Also in attendance: Anthony Payne (Strategic Director for Place) on behalf of the Chief Executive and Bernadette Smith (Senior HR Adviser).

The meeting started at 2.15 pm and finished at 5.15 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

90. **APPOINTMENT OF CHAIR AND VICE CHAIR**

Agreed that Councillor Penberthy is appointed Chair and Councillor Mrs Aspinall is appointed Vice Chair of this meeting of the panel.

91. **DECLARATIONS OF INTEREST**

There were no declarations of interest made by councillors in accordance with the code of conduct in relation to items under consideration at this meeting.

92. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

93. **EXEMPT BUSINESS**

Agreed that under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PERMANENT POSTS

94. **Consultation Feedback (E I)**

The panel received and noted some individual consultation feedback which had been submitted by candidates in relation to the posts of Head of Legal Services and Assistant Chief Executive.

95. **Appointment of Head of Legal Services (EI)**

The panel interviewed a candidate for the post of Head of Legal Services and noted that a further candidate had been unable to attend the meeting.

(See also minute 97 below)

96. **Appointment of Assistant Chief Executive (EI)**

The panel interviewed a candidate for the post of Assistant Chief Executive and noted that a further candidate had been unable to attend the meeting.

(See also minute 97 below)

97. **Appointments of Head of Legal Services and Assistant Chief Executive**

Further to minutes 95 and 96 above,

Agreed that –

- (1) both the candidates interviewed were suitable for appointment to the roles but that no appointment is made at this time;
- (2) in the absence of a further candidate for each of the posts, the appointments to the posts are deferred and arrangements are made for a further meeting of the panel to be held with the same members in the interests of fairness and consistency to all candidates.

Appointments Panel

Wednesday 30 April 2014

PRESENT:

Councillor Peter Smith, Vice Chair, in the Chair.
Councillor Penberthy, Vice Chair for the meeting.
Councillors Mrs Aspinall, Dr. Mahony and Parker (substitute for Councillor Evans).

Apologies for absence: Councillors Bowyer, Darcy and Evans (Chair).

Also in attendance: Donna Eunson (HR Adviser) and Giles Perritt (Head of Policy, Performance and Partnerships).

The meeting started at 9.30 am and finished at 11.00 am.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

98. **VICE CHAIR FOR THE MEETING**

In the absence of the Chair,

Agreed that Councillor Penberthy is appointed Vice Chair for the meeting.

99. **DECLARATIONS OF INTEREST**

There were no declarations of interests made by councillors in accordance with the code of conduct in relation to items under consideration at this meeting.

100. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

101. **EXEMPT BUSINESS**

Agreed that under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

102. **CHIEF SERVICE OFFICER CITIES OF SERVICE (E1)**

The Panel, having considered the applications, shortlisted the candidates which met the criteria for interview for the post of Chief Services Officer (Cities of Service).

Agreed that the candidates indicated (numbers 1, 2, 9, 13 and 15) are invited for interview on 9 May 2014.

PLYMOUTH CITY COUNCIL**INDEMNITY SCHEME FOR MEMBERS AND OFFICERS**

- I. Indemnity**
- I.1** Plymouth City Council ("the Council") will indemnify ("the indemnity") each Member (or co-opted Member) and Officer of the Council against any costs, claim, liability, loss and/or damage in relation to any action of, or failure to act by a Member or officer which :
 - I.1.1** is authorised by the Council; or
 - I.1.2** forms part of, or arises from, any powers or duties placed on that member or officer as a consequence of any function being exercised by him/her (whether or not when exercising that function he/she does so in the capacity of member or officer of the Council) and the function is being exercised at the request of, or with the approval of the Council, or for the purposes of the Council.
- I.2** The Council undertakes not to sue (or join in an action as co-defendant) a member or officer for any loss or damage or legal or other expenses in respect of any negligent act or failure to act by him/her in his/her capacity as a member or officer of the Council, subject to the following exceptions :
 - I.2.1** Any criminal offence, fraud or other deliberate wrongdoing or reckless act on the part of the member or officer; or
 - I.2.2** Any act or failure to act by the member or officer otherwise than in his/her capacity as a member or officer of the Council.
 - I.2.3** Liability in respect of losses certified by the Council's external auditors as caused by wilful misconduct or where unlawful expenditure has been knowingly or recklessly authorised.
 - I.2.4** Circumstances in which the member or officer has not acted in good faith
- I.3** The indemnity will also, subject to paragraph 5, be provided in relation to :
 - I.3.1** the defence of criminal proceedings arising in relation to the undertaking of functions (excluding motoring offences) brought against the member or officer.
 - I.3.2** any civil liability arising as a consequence of any act or failure to act which also constitutes a criminal offence.
 - I.3.3** the defence of any proceedings pursuant to Part 3 of the Local Government Act 2000 relating to alleged failure to comply with the Members Code of Conduct ("Part 3 Proceedings").

1.4 No indemnity is provided in relation to the pursuit by a member or officer of any claim for alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against him/her.

1.5 This indemnity will not apply if a member or officer, without the express permission of the Council or of the appropriate officer of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the indemnity.

2. **Ultra Vires Acts**

2.1 Where the act or failure to act falls outside the powers of the Council, the member or officer :

2.1.1 must have believed that the act or failure to act in question was within the powers of the Council;

2.2.2 where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, must have believed that the contents of that statement were true; and

it must be reasonable for the member or officer to hold that belief at the time when he/she acted or failed to act.

2.2 The indemnity may apply to an act or omission which is subsequently found to be beyond the powers of the member or officer in question, but only to the extent that the member or officer reasonably believed that the act or omission was within his/her powers at the time when he/she acted.

3. **Acting as a Member or Officer on Outside Bodies**

3.1 Where the member or officer is acting on behalf of another organisation then the activities covered will be deemed to have arisen in his/her capacity as a "member or officer of the Council" where :

3.1.1 the appointment to that outside body was made by the Council; or

3.2.2 the nomination to that outside body was made by the Council; or

3.2.3 such appointment to that outside body was specifically approved for the purpose of these indemnities.

4. **Repayment of and Approval of Legal Costs Representation**

4.1 Where a member or officer seeks the indemnity in relation to the defence of any criminal proceedings, the defence of an action for defamation or the defence of any Part 3 Proceedings, the indemnity shall be subject to the terms that if :-

4.1.2 in the case of criminal proceedings, the member or officer in question is

convicted of a criminal offence and that conviction is not overturned following any appeal, or

4.1.3 in the case of civil proceedings for defamation the member or officer in question is found to have acted out of malice, or

4.1.4 in the case of Part 3 Proceedings:

- a) a finding is made that the member in question has failed to comply with the Code of Conduct, and that finding is not overturned on any appeal, or
- b) the member admits that he/she has failed to comply with the Code of Conduct

then the member or officer shall be required to reimburse the Council for any sums expended by the Council in relation to those proceedings pursuant to this indemnity.

4.2 Where a member or officer is obliged to reimburse the Council pursuant to the terms of the indemnity, those sums shall be recoverable by the Council as a civil debt.

4.3 Where the Council arranges insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 4.1 shall apply as if references to the Council were references to the insurer.

5. Notification of a claim, approval of expenditure etc.

5.1 The indemnity will have no effect if the member or officer fails to:

5.1.1 notify the Monitoring Officer as soon as reasonably practicable after the member or officer is aware that a claim might be made,

5.1.2 take reasonable steps to mitigate the amount that might otherwise be claimed under the indemnity, or

5.1.3 permit appropriate Council officers access to any information or advice, such as legal advice, relevant to the matter and comply with all other requests of the Council in the conduct of the claim.

5.2 The indemnity will not apply if a member or officer, without the express permission of the Council or the Monitoring Officer acting on behalf of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the indemnity.

5.3 The Indemnity will not apply in paragraph 1.3.3 unless and until the Monitoring Officer has received instructions from the Assessment Sub-Committee or the Standards Board for England to undertake a formal investigation into allegations.

6. Insurance

6.1 To assist in discharging the indemnity, the Council may, at its discretion, arrange insurance.

- 6.2** In any case where insurance is available, any member or officer claiming to be indemnified by the Council shall use all reasonable endeavours to abide by any requirements of the insurer and to assist the Council in claiming and securing payment(s) under the insurance policy.

7. Relationship with other insurances

- 7.1** The indemnity shall not apply to the extent that an external body in respect of which the member or officer is carrying out any function at the request of, or for the purposes of the Council, indemnifies or insures such member or officer itself.

- 7.2** The indemnity will not apply in respect of claims falling within the cover provided to members and officers under any insurance policy taken out by the Council or otherwise, or any motor insurance taken out by the member or officer.

8. Disciplinary Action

- 8.1** This indemnity and undertaking are without prejudice to the rights of the Council to take disciplinary action, if appropriate, against an officer in respect of any act or failure to act.

9. Retrospective and future application of indemnity

- 9.1** These indemnities and undertaking shall apply retrospectively to any act or failure to act which may have occurred before the date of this Indemnity Scheme and shall continue to apply after the member or officer has ceased to be a member or officer of the Council as well as during his/her membership of or employment by the Council.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank