

# Swindon Borough Council

## Special Committee

**Tuesday, 5 November 2013**

Committee Room 2, Civic Offices (Anticipated meeting room)

At 6.00 p.m.

### **Conservative Councillors**

*David Renard (Chair)*  
*Fionuala Foley*  
*Garry Perkins*  
*Brian Mattock (Vice-Chair)*  
*Mike Bawden*

### **Labour Councillors**

*Mark Dempsey*  
*Jim Grant*  
*Des Moffatt*  
  
***Deputies:*** *All other  
Labour Shadow Cabinet  
Members*

### **Liberal Democrat Councillors**

*Stan Pajak*  
*David Wood (Deputy)*

***Deputies:*** *All other Liberal  
Democrat Members*

(Copies to all other Members of the Council – For Information)

**Committee Officer:** Ian Willcox (Telephone: 01793 463601)

email: [iwillcox@swindon.gov.uk](mailto:iwillcox@swindon.gov.uk)

Swindon Borough Council can be contacted at the Civic Offices, Euclid Street,  
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**Access Arrangements** - The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you have any special requirements to enable you to attend the meeting or would like to receive any of the pages contained in this agenda in a larger print size, please contact the Committee Officer as soon as possible prior to the date of the meeting.

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## **AGENDA**

### **PART 1 (PUBLIC ITEMS)**

**1. Apologies for Absence.**

**2. Declarations of Interest.**

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

**3. Minutes. (Pages 1 - 2)**

To receive the minutes of the meeting held on 6<sup>th</sup> August 2013.

**4. Public Question Time.**

See explanatory note below. Please phone the Committee Officer whose name

and number appears at the top of this agenda if you need further guidance.

**5. Chief Officers - Changes to Terms and Conditions of Employment. HPD**  
(Pages 3 - 8)

**Date of Despatch:** 28 October 2013

**Key:**

**Officers:**

CE	-	Chief Executive
DLDS	-	Director of Law and Democratic Services (Monitoring Officer)
HPD	-	Head of People and Development

**Public Question Time** - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

**Special Committee - Terms of Reference**

The Special Committee shall have delegated to it the power to act for the Council on the advice of the Chief Executive on any policy decision or any particular matter that is urgent and necessary in the best interests of the Council.

The quorum of the Committee shall be three.

Deputy Members may be appointed at the Annual or any meeting of the Council.

Minutes of any proceedings of this Committee shall be submitted to the Council.

**SPECIAL COMMITTEE**

**TUESDAY, 6 AUGUST 2013**

**PRESENT:-** Councillors Brian Mattock (Vice-Chair, in the Chair), Mark Dempsey, Fionuala Foley, Des Moffatt, Mike Bawden, Steve Allsopp (Deputy), Claire Ellis (Deputy), Richard Hurley (Deputy) and Ann Richards (Deputy).

Apologies for absence were received from Councillors David Renard (Chair), Jim Grant, Garry Perkins and Stan Pajak.

**6. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting.

**7. Minutes**

Resolved – That the minutes of the meeting held on 5<sup>th</sup> July 2013 be confirmed and signed as a correct record.

**8. Public Question Time**

No public questions were asked under Standing Order 28.

**9. Exempt Items - Exclusion of Press and Public**

Resolved – That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in the additional oral Agenda Item (Shareholder Consent Matters - Swindon Commercial Services Ltd. ) on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned. (Minute 11 refers.)

**10. Appointment of Director to the Board of Swindon Commercial Services Ltd.**

The Director of Law and Democratic Services reported that further to the decision of the Council on the Strategic Review of Swindon Commercial Services Ltd. (Minute 4 refers), it was necessary for the Council, as shareholder, to appoint a new director to serve on the Board of Swindon Commercial Services Ltd. following the retirement of the former Managing Director. He explained the reasons for seeking to make the proposed appointment at this time and the role and responsibilities.

Councillor Des Moffatt asked if a decision would be taken to fill the vacancy that had arisen for a private sector representative on the Board of Swindon Commercial Services Ltd.

The Director of Law and Democratic Services and the Board Director, Service Delivery advised that steps were underway to identify a suitable person to fulfil this role.

Resolved – That Mr Bernie Brannan, Board Director, Service Delivery, be appointed as a director to serve on the Board of Swindon Commercial Services Limited (SCS).

**11. Shareholder Consent Matters - Swindon Commercial Services Ltd.**

The Director of Law and Democratic Services reported that further to the decision of the Council on the Strategic Review of Swindon Commercial Services Ltd. (SCS) (Minute 4 refers), various 'Shareholder Consent' matters under the Memorandum of Understanding between the Council and SCS might arise for determination by the Council, including any change in the membership of the SCS Board which might be sought by the company.

Resolved – That the update of the Director of Law and Democratic Services be noted.

## Chief Officers – Changes to Terms & Conditions of Employment

### Special Committee

Date: 5<sup>th</sup> November 2013

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Author:	Leader of the Council and Head of People and Development
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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#### **1. Purpose and Reasons**

- 1.1 To seek Special Committee's endorsement, on behalf of the Council, to changes in the terms and conditions of employment for existing Chief Officers.
- 1.2 The Head of People and Development does not hold specific delegated powers, under the Council's Scheme of Delegations, to agree this degree of change to the Chief Officers' terms and conditions of employment.

#### **2. Recommendations**

##### The Special Committee on behalf of the Council:

- 2.1 Approves the buy-out of the performance related pay element for existing Chief Officers by offering an increased contractual minimum employer notice period from three to six months. Notice required by the employee will remain at three months.
- 2.2 Agrees the implementation of a matrix approach to determine the level of severance payments made to existing Chief Officers as shown in Appendix 1.
- 2.3 Recommends that a separate review of terms and conditions for new Chief Officers be made in order that our offer allows us to be competitive in the recruitment market, whilst taking account of the wider financial context we are working in, recognising that it would be no more generous than that for existing Chief Officers
- 2.4 That the changes set out in 2.1 and 2.2 become effective with effect from 11 November 2013.

#### **3. Detail**

- 3.1 Swindon Borough Council currently has 20 employees on Chief Officer Terms and Conditions of Employment, including the Chief Executive and Board Directors.
- 3.2 In June 2005, as part of the Executive Pay Strategy approved by Full Council, agreement was given for a performance related element of pay to be introduced for Chief Officers, designed to encourage and reward performance beyond the norm. This has a value of up to 15% of salary for the Chief Executive and Board Members and up to 10% of salary for other Chief Officers. As part of the

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Further information on the subject of this report can be obtained from Nicola Houwayek on 07824 550456 or Email [nhouwayek@swindon.gov.uk](mailto:nhouwayek@swindon.gov.uk).

# Chief Officers – Changes to Terms & Conditions of Employment

Special Committee

Date: 5<sup>th</sup> November 2013

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- negotiation to implement this change, Chief Officers agreed to a reduction in the level of their annual leave entitlement.
- 3.3 The entitlement to these payments remains but no payments have been made for the last four years and it is not anticipated that the Council will be in a financial position to make payments in the future.
- 3.4 Existing contracts of employment agree a three month notice period for either party (with the exception of the Chief Executive, where it is six months).
- 3.5 The Local Government Chief Officers' handbook states that notice periods for Chief Officers will normally be 3 months but it also gives local authorities discretion for notice periods for Chief Officers to be changed by mutual agreement.
- 3.6 Following consultation with senior councillors it was proposed that a "buy-out" of the performance related pay be put to existing Chief Officers, with an offer to replace this benefit with an increase to the level of notice the Council would give, should there be a requirement to terminate employment.
- 3.7 In line with legal requirements for a change to contractual terms and conditions of employment, this proposal was consulted on with Chief Officers and no objections were raised.
- 3.8 The Council has made a number of severance payments to Chief Officers over the last few years. In addition to consulting with external advisors in order to promote a level of consistency across the region, individual factors have been taken into account when agreeing the sums, including length of service, reasons for leaving, precedence, risk of challenge to the organisation, etc. Payments have varied between 6-12 months of salary, including pay in lieu of notice (PILON).
- 3.9 The Council has an obligation to make a statutory redundancy payment and does this for all staff. Under the terms and conditions for Chief Officers, the Council is obliged to bear in mind its powers to make an enhancement to this basic payment and the severance payment proposed for Chief Officers in this report is in addition to this basic payment.
- 3.10 Under Regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the Council has the power to make an additional lump sum severance payment of up to two years pay in cases of redundancy.
- 3.11 The number of our senior officers has reduced significantly over the past few years and we are asking more and more of them. It is more likely, now than ever, that the reason for someone senior to leave the organisation has no bearing on their personal performance and in order to retain capable leaders to
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Further information on the subject of this report can be obtained from Nicola Houwayek on 07824 550456 or Email [nhouwayek@swindon.gov.uk](mailto:nhouwayek@swindon.gov.uk).

# Chief Officers – Changes to Terms & Conditions of Employment

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work within this environment, a key motivator can be the knowledge of a degree of security should they be required to leave.

- 3.12 To that end, it is suggested that the criteria set out in the matrix approach outlined below be adopted. to determine the level of payment that would be make should we require a Chief Officer to leave the organisation. Detail of the matrix is shown in Appendix 1 and in summary, it includes consideration of:

3.12.1 Length of service as a Chief Officer.

3.12.2 Whether a holder of a statutory post (as listed).

3.12.3 The extent of responsibility and level of risk.

3.12.4 There is also the option to apply flexibility to manage high risk through a compromise agreement.

- 3.13 All decisions on the level of payments will be based on the matrix and will continue to be submitted for approval to by Full Council by way of its Special Committee.

## 4. Alternative Options

- 4.1 To retain the option of performance related pay element, in the knowledge that it is extremely unlikely payments will be made.
- 4.2 To retain the current approach, without reference to a matrix.

## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 5.1 The current potential annual value of the performance bonus scheme is c£200,000 per annum. An additional 3 months' notice, which will be paid only if it is agreed that the individual will leave before their notice period expires and, in these circumstances as a one-off payment, will be in the region of £18k - £35k per Chief Officer. Severance payments, on the application of the matrix to existing Chief Officers would require one-off payments of between 1-9 months' salary, which would be in addition to pay in lieu of notice if this has been agreed.

### Legal and Human Rights Implications

- 5.2 Legal and Human Rights considerations have been taken fully into account in compiling this report. It is considered that the recommendations of this report are compatible with convention rights.

# Chief Officers – Changes to Terms & Conditions of Employment

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### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 No other specific implications were identified in the preparation of this report.

### Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.4 No specific links were identified in the preparation of this report.

### Diversity Impact Assessment

- 5.5 It was not considered necessary to undertake a full Diversity Impact Assessment in respect of this report as it does not impact on services. However, equality and diversity implications have been considered in the development of this report.

### Risk Management

- 5.6 No specific, unmitigated risks were identified in the preparation of this report.

## **6. Consultees**

- 6.1 The Board Director Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## **7. Background Papers**

- 7.1 None.

## **8. Appendices**

- 8.1 Appendix 1 – Proposed Matrix to Determine the Level of Enhancement for Chief Officer Severance Payments.



### Matrix to Determine the Level of Enhancement for Chief Officer Severance Payments

Criteria	Length of Time/Other Measurement	Level of Potential Payment (Time) – NB: Statutory maximum of 24 month's pay
1. Length of service in post (as a Chief Officer and/or member of Corporate Board)*	1 to 5 years	1 month
	5-10 years	2 months
	10 years plus	3 months
2. Holder of the following statutory posts - HoPS / CFO / MO / DCS or DASS**	Yes	Up to 3 months depending on length of service at SBC:
	Up to 5 years	1 month
	5-10 years	2 months
	10 years plus	3 months
3. Extensive responsibility and level of risk in role***	Low	0
	Medium	1 month
	High	3 month
Where there is felt to be a need for a compromise agreement, the above will not apply and a separate arrangement will be agreed on an individual basis, taking account of the nature and potential of the risks being managed. This will continue to be submitted to members for approval.	This will depend on individual factors	Variable, depending on level of risk and size of total package on offer. Likely to be between 1-9 months

#### Key

HoPS - Head of Paid Services

CFO - Chief Finance Officer

MO - Monitoring Officer

DCS – Director, Children Services

**DASS - Director of Adult Social Care**

\*Length of service in post, rather than length of service with the authority

\*\*Holder of a Statutory post (HoPS, CFO, MO, DCS, DASS) – the rationale for this is that the job holder has a statutory responsibility which includes holding others to account on specific issues (ie through challenge or “enforcement” if necessary) and that they will be held personally accountable, irrespective of personal performance.

\*\*\*Extent of responsibility and level of risk in role – the rationale for having this is that all CO roles carry a level of risk due to their seniority. It also takes account of the fact that a wider breadth of responsibility creates more potential risk for an individual holding a role. That risk will be relating to varying issues, depending on the nature of the role, but will include things like public profile and exposure, the extent and breadth of working within the political arena, commercial decision making, the level and type of consequence should something go wrong in the areas they are responsible for. The expectation is that high risk would apply to the CE and Tier 1 posts, Medium risk to the majority of Tier 2 roles – potentially with a couple of exceptions but we must not double count risk that goes with a statutory position, alongside this separate consideration. The level of risk cannot be pre-determined, as it will depend on the nature of the role at the time the decision is made to terminate the contract.