

Eden District Council
Council

24 September 2020

Constitution Change – Deputy Head of Paid Service

Portfolio:	Leader
Report from:	Assistant Director Governance (Monitoring Officer)
Wards:	All Wards
OPEN PUBLIC ITEM	

1 Purpose

- 1.1 To receive a report from the Council's Monitoring Officer to consider an amendment to the Constitution, which would provide for the appointment of a Deputy Head of Paid Service.
- 1.2 Provided that the amendment referred to in 1.1 is approved to consider designating Les Clark as Deputy Head of Paid Service

2 Recommendation

It is recommended that:

- 2.1 Council approve an amendment to the Constitution to allow for the appointment of a Deputy Head of Paid Service to be appointed by the Council.
- 2.2 Subject to the approval of the recommendation at 2.1 the Council approve Les Clark as the Deputy Head of Paid Service.
- 2.3 Subject to the approval of the recommendation at 2.1 the Assistant Director Governance amend the Constitution to reflect the above appointment.

3 Report Details

- 3.1 The Council has a duty, under Section 2 of the Local Government and Housing Act 1989 to "*designate one of its officers as Head of Paid Service.*"
- 3.2 The Head of Paid Service statutory responsibility was previously held by the Chief Executive, who departed the Council at the end of August. Whilst it is usual for the Chief Executive to have the responsibility it is clear that in the absence of one, there still needs to be an officer who is designated as the Head of Paid Service.
- 3.3 Whilst the Constitution does allow for some delegation of duties by the outgoing Head of Paid Service prior to their departure, this doesn't cover the statutory responsibility of Head of Paid Service, which means the Council currently has no Head of Paid Service.
- 3.4 The Council has three statutory posts Head of Paid Service, Chief Finance Officer (section 151 Officer) and Monitoring Officer. Part 3, section 5.4 of the Constitution makes provision for the Section 151 Officer and Monitoring

Officer to appoint deputies to act in their absence, however no such provision exists for the Head of Paid Service.

- 3.5 It would seem logical for the same provision to exist for the Head of Paid Service, which would be approved by Full Council and would prevent this anomaly occurring in the future.
- 3.6 It is therefore proposed that Council consider an amendment to Part 3 Section 5.4 of the Constitution that would provide that a Deputy Head of Paid Service (alternative Proper Officer) be appointed. This would be a Council decision usually, although not exclusively, at the recommendation of the Head of Paid Service.
- 3.7 If approved, it would also allow for the designation of one of the Council's officers as Head of Paid Service, in line with the legislation set out above, at the earliest opportunity.
- 3.8 The options for delegating to the role are limited by Article 11 of the Council's Constitution as the Head of Paid Service role may not be held by either the Chief Finance Officer or Monitoring Officer. The reason for this is to keep the three statutory roles separate.
- 3.9 Les Clark is the Council's Director of People and Place and would be able to undertake the role of Deputy Head of Paid Service. It is therefore proposed that Les take up the role until more formal arrangements are considered by the Human Resources and Appeals Committee and brought to Council for approval.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:

- Sustainable;
- Healthy, safe and secure;
- Connected; and
- Creative

- 4.2 This report meets all the corporate priorities.

5 Consultation

- 5.1 No formal consultation has been undertaken due to the urgent nature of the changes proposed.

6 Implications

6.1 Financial and Resources

- 6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-2023 as agreed at Council on 7 November 2019.

There are no immediate financial implications of the proposal.

6.2 Legal

- 6.2.1 The Council has a duty, under Section 4 of the Local Government and Housing Act 1989, to designate one of its officers as Head of Paid Service. The change in constitution enables a Head of Paid Service to be designated

at the earliest opportunity and ensures that the Council does not find itself in this position in the future.

- 6.2.2 In the event the new Chief Executive is not appointed prior to the existing Chief Executive leaving, Council will have to designate another officer into that role. The Council's Constitution does not allow for the Head of Paid Service role to be held by the Monitoring Officer or the Chief Finance Officer. The reason for this is to keep the three statutory roles separate.

6.3 Human Resources

- 6.3.1 The quality of leadership at an organisation has a direct impact on the effectiveness and productiveness of that organisation. It is therefore important that due consideration is given to the requirements of the interim arrangements.

6.4 Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	There are no implications arising out of the proposals set out within this report.
Health, Social Environmental and Economic Impact	There are no implications arising out of the proposals set out within this report.
Crime and Disorder	There are no implications arising out of the proposals set out within this report.
Children and Safeguarding	There are no implications arising out of the proposals set out within this report.

6.5 Risk Management

Risk	Consequence	Controls Required
That the Council isn't adhering to its statutory responsibility to have a designated Head of Paid Service.	Low risk in the short term. Could have reputational risk in the longer term.	Designate a Head of Paid Service as quickly as possible.

7. Other Options Considered

- 7.1 None.

8 Reasons for the Decision/Recommendation

- 8.1 To ensure the Council has an officer designated as Head of Paid Service at the earliest opportunity.

Background Papers: None

Contact Officer:

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