

## **Report to Cabinet**

Meeting to be held on Monday, 21 August 2017

### **Report of the Chief Executive**

Electoral Division affected: (All Divisions);
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### **Senior Management Restructure**

(Appendices 'A' to 'G' refer)

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#### **Executive Summary**

The Leader and Cabinet have indicated that one of their highest priorities is the restructuring of the Council's senior management and that they would wish to see the changes introduced as speedily as possible.

This report sets out for Cabinet's consideration three options for the restructuring of the Council's senior management at director grade and above. Option A comprises proposals developed by Cabinet and the Lead Member for Human Resources; Option B sets out proposals made by the Chief Executive in her capacity as Head of the Paid Service which she considers will deliver the principles underpinning Cabinet's aims but which addresses the risks which she considers are inherent in Option A; Option C would involve a review of the Council's business and operating model as approved by Full Council in February 2016 in budget option 018.

The report provides the necessary officer advice in relation to each option consistent with advice provided by James Goudie QC.

#### **Recommendation**

Cabinet is asked to:

1. Note the contents of the report including the officer advice in relation to each of the Options identified in the report.
2. Approve, for the purposes of consultation with the staff affected, a proposed new senior management structure including the proposed arrangements for appointments to be made to the structure, the outcome of the consultation to be reported back to Cabinet at its meeting to be held on 14 September 2017.

## Background and Advice

In October 2014, following an extensive consultation exercise with staff and the trade unions, Cabinet approved a new employee structure for the Council for posts at or above grade 11 and the principles for making appointments to all posts within the new structure, including those below grade 11. The Employment Committee were authorised to make appointments to the most senior posts in the new structure which was implemented with effect from 1 April 2015.

The change in the structure was introduced to achieve significant financial savings, and represented a fundamental re-design of the existing operating model, moving away from the directorate model to one intended to be more joined up, flexible, focussed on the needs of customers and able to maximise the impact of available funding. The decision resulted in a reduction of over 150 posts at grade 11 and above (circa 28% of the posts in scope), achieving cost savings of £11.4 million per annum. Cabinet committed that, wherever possible, employee numbers would be reduced on a voluntary basis.

At its meeting held on 13 July 2017 Cabinet considered an item of urgent business comprising a diagram of a proposed senior management structure. Advice has been obtained from Leading Counsel that Cabinet's decision based on the information provided was unlawful.

Officers have subsequently worked to develop the proposals initially made to Cabinet which are presented below as Option A and to provide the advice set out in the report.

### **Option A - The proposals developed by the Leader of the Council, Cabinet Members and Lead Members**

The proposals initially provided to officers, setting out Cabinet's rationale and outlining its objectives underpinning the proposed changes is set out below, shown in bold type, along with a commentary provided by officers. The proposed structure referred to is at Appendix 'A'. The following paragraphs are taken from Cabinet's initial proposals provided to the Chief Executive, with officer advice in response. The full text of the proposals is at Appendix 'B'.

- **"The County Council faces serious financial problems. The previous Administration commissioned Price, Waterhouse Cooper (PWC) to report on the extent of the Council's financial problems and following their review in September 2016 PWC said "... the Council is forecasting a cumulative deficit of £398m by the end of 2020/2021. It also found that even if the Council was to reduce its expenditure to the level of the lowest quartile within the term of this financial planning period it would still be facing an in year deficit of £79m and a cumulative deficit of £227m by 20/21. The Council has been drawing on its reserves to plug the financial gap. On the current trajectory, these will be exhausted by 2018/2019."**

## Advice

The financial position quoted from the September 2016 PWC report has since been updated in the County Council Budget Report in February 2017 to reflect the current financial position. Whilst the fundamental issues underpinning the statement remain unchanged the timescale has changed, the Council's finances are in a better position with its reserves now being forecast to be exhausted a year later, 2019/20.

- **"Clearly, this is a very serious situation which, somewhat obviously, cannot be allowed to continue and PWC advised most strongly that it was vital that the Council acted *"before September"*."**

## Advice

This is not a statement that can be found or implied anywhere in any document prepared for the County Council by PWC with respect to the need to restructure the Council's senior management.

However, the Leader has indicated in correspondence to the Chief Executive that this advice was given in a private briefing to him and Councillor Green, in December 2016, on the PWC report. There are two PWC reports; The Statutory Services Budgetary Review (SSBR) dated 23<sup>rd</sup> September 2016 and The Lancashire Public Services Delivery Model dated 9<sup>th</sup> January 2017.

The work of PWC was overseen by the Political Governance Working Group. PWC made presentations to the Working Group on a number of occasions but at no time did they raise the issues referred to above.

The briefing to Councillors Green and Driver took place on the 12<sup>th</sup> December 2016, and was to provide them with an update on the conclusions of the second report. The content of the briefing was the same as that given to the then Cabinet and to the Leader of the Liberal Democrat Group at the time. Neither of these other briefings included any content that supports Councillors Driver's and Green's interpretation.

PWC have subsequently been asked to comment on this assertion and have provided the following clarification:

*"PwC were engaged pursuant to a framework agreement dated May 2016 and associated contract for Work Services dated June 2016. The stated purpose of the engagement was to provide an independent review of the resources LCC needs to deliver its statutory services. This was done in the wider context of the LCC's statutory duty, to continuously improve the way functions are exercised, having regard to a combination of economy, efficiency and effectiveness. PwC's conclusions and findings can be found in the report dated 9 January 2017. The executive summary of this report states:*

*"This report was commissioned by Lancashire County Council (LCC) to articulate a vision for integrated and sustainable public service delivery across Lancashire. The whole of the public sector in Lancashire is under significant*

*pressure financially and in delivering against key outcomes. This document sets out a rationale and approach for an integration of public services that will improve the experience for citizens when accessing services, reduce cost and above all provide a platform for improving health and prosperity for Lancashire."*

*As part of the engagement, PwC were asked by the Chief Executive of LCC to provide a series of confidential briefings to the leaders of the three main political parties. The confidential briefings were to explain PwC's review and the provisional recommendations made.*

*It is my understanding that the purpose of the briefings were to reflect the Chief Executive's desire to ensure that the political parties concerned understood the need for a transformation agenda and to build a detailed understanding of the budget required to deliver LCC's statutory services and the urgent need to bridge the financial gap. In the report and the briefings PwC emphasised the scale of the financial challenge to LCC and the need to implement a whole range of programmes as quickly as possible to deliver benefits. The report and the briefings made the point that the transformation agenda needed strong and robust management in order to carry out the transformation.*

*We understand that the full draft report has been made available to the LCC officers and members and its management. Therefore to the extent that there is any need for clarification as to PwC's views and conclusions, including what was said during the briefings, you are referred to the full text of the draft PwC report prepared for LCC.*

*You have asked us to comment on the content of the confidential briefing with Councillor Driver. Specifically you have asked if during the briefing PwC reported on the then current management team and/or structure. This briefing took place eight months ago, and PwC did not prepare a speaking note for the briefings. However, the PwC engagement leads, Messrs House and Gold, confirm that the briefing to Councillor Driver followed and was consistent with the contents of the draft report and the briefings given to the leaders of the other political parties. The PwC report does not include findings or recommendations in relation to any individual member of LCC, its management, or structure.*

*While PwC undertook the engagement, LCC retained ownership of the overall programme for transformation and responsibility for all decisions relating to the implementation. Since delivering the draft report PwC has not been involved in the implementation phase."*

- **"There are also serious concerns that rather than enabling a solution to be found to the Council's financial problems, the current senior management structure actually inhibits the identification of possible solutions that can be put to Elected Members for their consideration. This is because all the services the Council provides to the people of Lancashire, including Children's Services and Adult Services which have the most serious financial and service delivery problems, report to one Corporate Director."**

## Advice

The proposal cites the PWC report of September 2016, with respect to the budget and the exhaustion of reserves by 2018/19.

The current Management Team have taken significant action to stabilise the council's financial position since that time.

To date the current Management Team has been highly successful in delivering the council's budget reduction and transformation programme. The current Medium Term Financial Strategy (MTFS) and approved budget includes the delivery of a £212m savings programme over the period 2015/16 through to 2018/19.

In mid-2016, as part of their analysis and as set out in their report, PWC reviewed the council's risks with respect to the delivery of the savings programme and *"identified a delivery risk factor of up to 41% on their planned savings"*.

The Leader of the Council has recently been briefed on the delivery of the programme which is currently forecast to deliver at a level of c91%. The Management Team has applied significant skill, expertise and creativity in both maintaining the council's services, motivating employees and delivering an ambitious saving programme in the face of such a high delivery risk factor.

The Council's Management Team were instructed by the previous administration to identify options for how the council could reduce its expenditure to lowest quartile in line with the position set out in the PWC report. This was reported verbally by the previous Deputy Leader of the Council to Cabinet and Full Council as part of the budget setting debates.

Significant and detail preparatory work was undertaken by the Management Team prior to the County Council elections in May 2017 in readiness for engagement with the new Cabinet. Detailed options have been prepared for every area of the council's expenditure; some 126 detailed templates to date have been prepared covering c£113m of possible expenditure reductions. Each detailed template has been signed off by the respective Director for the service area.

These detailed templates were provided to the Leader of the Council for consideration on the 28th June 2017. He has subsequently confirmed to the Director of Financial Resources that approximately £50 million of these proposed savings should be reported to Cabinet in September for them to consider.

Additionally, a range of corporate options with respect to terms and conditions of service have been developed for discussion with the new Administration.

Furthermore, the Corporate Director for Commissioning and Deputy Chief Executive wrote to the Leader, every Cabinet Member and every Lead Member on the 9<sup>th</sup> June 2017 setting out a detailed programme for the *Development of the Corporate and Financial Strategies 2018/19 to 2021/2022* and seeking the views of Cabinet. To date no response has been received to this proposal.

It is not considered that there is cogent evidence that the current structure of the senior management team is an impediment to the development of budget solutions. Indeed, the track record to date has shown that it is particularly effective at facilitating such processes.

- **"It is also a serious concern that the County Council's most senior Finance Officer ('the Section 151' Officer) is at fourth tier level in the management structure and is therefore not a member of the Council's senior Management Team in his own right."**

### **Advice**

Since the implementation of the current senior management structure and the appointment of the Director of Financial Resources, he has been a key member of the Council's Management Team. Both the Council's Monitoring Officer and s.151 Officer have direct access to the Chief Executive as they consider necessary in connection with their statutory functions.

- **"It should also be noted that the budget proposed by the previous Administration and approved by Council in February 2016, includes a reduction of 7 in the number of Directors to save over £900,000. This reduction has not been implemented and is currently being funded from the Council's reserves"**

### **Advice**

The way all organisations are managed needs to be kept under continuous review to ensure that they are responsive to current and evolving circumstances and business requirements. It is for this reason that the current Management Team put forward a proposal as part of the 2016/17 budget that a new senior management structure be in place as of 1<sup>st</sup> April 2018 (BOP 018, Appendix 'C').

Budget Option 018 is discussed in more detail under Option C. However, in summary it proposed a review of the Council's business and operating model and as a minimum a reduction in the number of Directors and Corporate Directors by 7 FTEs so that it has the potential to deliver significantly greater financial savings than either Options A or B.

The revenue budget was reduced to reflect this reduction in number of posts from 1<sup>st</sup> April 2016, with provision being made from reserves to fund all posts until 31<sup>st</sup> March 2018. This was in recognition of the significant processes that needed to be undertaken to give effect to the proposal, and the delivery timeline also recognised the possibility of a change of political Administration and therefore the potential to realign the structure to the political priorities of any incoming Administration.

The policy option therefore recognised the preparatory work that needed to go into developing a new structure, involving the development of the new Administration's Corporate and Financial Strategies to a point where a new business and operating

model can be articulated. However, as identified earlier in the report, it has not been possible to undertake this work

### **Cabinet's proposed Executive Director Structure**

Based on the above considerations Cabinet's initial proposals were to adopt the management structure shown at Appendix 'A'. Cabinet has described the proposed structure in the following terms:

- ***Chief Executive and Director of Resources and 'Section 151' Officer***

***Especially in the current financial situation it is felt that the Chief Executive Officer should also be the Council's most senior finance officer and the statutory 'section 151' officer. This will enable him/her to advise the Administration on the financial as well as the policy dimensions of all proposals and to ensure that the financial problems are at the heart of all decisions made at every level of the organisation. The proposed structure for the Directorate of Resources is shown in the attached Appendix A.***

### **Advice**

The key feature of Option A is the proposal to combine the roles of Chief Executive/Head of the Paid Service and the Chief Financial Officer (the S.151 officer) role into a single post at the head of the organisation.

In considering the proposed combination of the roles of the Chief Executive and the Chief Financial Officer/s.151 officer consideration should be given to the following factors:

- The impact upon good governance.
- The dilution of the leadership capacity of the Council
- The ability to effectively discharge the s.151 officer responsibilities and those of the Head of the Paid Service.

### **Impact on Good Governance**

Lancashire County Council is the fourth largest local authority in the UK. Its governance arrangements have always been an exemplar of probity and good practice. The roles of the three statutory officers; the Head of the Paid Service (currently the Chief Executive), the Monitoring Officer (currently the Director of Governance, Finance and Public Services) and the s.151 Officer (currently the Director of Financial Resources) are set out in statute and are designed to ensure probity and good governance. The roles are designed to be independent of one another and the combination of the roles would inevitably weaken that independence.

Section 151 of the Local Government Act 1972 requires every council to make arrangements for the proper administration of their financial affairs and must secure

that one of their officers has responsibility for the administration of those affairs, the role being usually described as the "s.151 officer". The officer so appointed must be a member of a specified accountancy body.

In particular, there are circumstances where statute requires consultation between the Chief Executive and the s.151 Officer and vice versa before decisions are made or actions taken. Combining the roles would seriously weaken good governance and remove the effective checks and balances that are built into the system.

This is particularly critical in the current financial circumstances of the County Council where there is the potential for the Council to be unable to set a balanced budget. In these circumstances the s.151 Officer has a specific statutory duty set out in s.114 of the Local Government Finance Act 1988 which requires him to report to all Members, in consultation with the Monitoring Officer and Head of the Paid Service, if there is, or is likely to be, unlawful expenditure, which includes the situation where a council cannot set a balanced budget.

The potential political pressures surrounding such a scenario require the highest levels of independence, probity and good governance. The combination of the roles would therefore be ill-advised, particularly at this time, as it would remove the checks and balances provided for by way of the statutory consultation requirements.

### **Dilution of the leadership capacity of the Council**

In a local authority the size of Lancashire the roles of both the Chief Executive and the s.151 officer are both full time, very demanding jobs. A key stated objective of the proposal set out in Option A is the strengthening of the financial leadership at the very top of the organisation. However, it is considered that by combining two full time jobs into one would have the inevitable effect that it would significantly dilute both the capacity of the Chief Executive function and the capacity of the s.151 Officer function.

Therefore, whilst this aspect of the proposal may appear sensible, particularly given the financial challenges facing the Council, any detailed analysis demonstrates that the outcome would be contrary to the objective set. Alternative options are available that can achieve Cabinet's objectives and these are set out later in the report.

### **The ability to effectively discharge the s.151 Officer responsibilities**

Because of the scale and responsibilities attached to the s.151 role in the context of an authority the size of Lancashire, this means that there would be insufficient capacity to carry out the role effectively.

In this regard Cabinet's attention is drawn to the guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) attached at Appendix D, on the Role of the Chief Financial Officer in Local Government.

The guidance in particular addresses the issues relating to the dilution of the role of the Chief financial Officer; the relevant extract is set out below:



## **Helping resource and deliver organisational objectives**

*There is a growing trend for CFOs to hold a range of different responsibilities beyond finance, including managing other services or leading change programmes. Whilst these can develop the individual as a corporate manager, authorities must not let the CFO's core financial responsibilities be compromised through creating too wide a portfolio. Dilution and/ or overload in the role of the CFO can result in poor financial outcomes for the authority. Setting out the core CFO responsibilities in this Statement is intended to allow local authorities and their CFOs to assess their job descriptions to ensure that their core finance responsibilities can be properly performed.*

If Cabinet are minded to nevertheless agree to the combination of the roles, then they, or Employment Committee, would be advised to consider how some of the risks identified above could be mitigated.

Cabinet's proposals describe three Executive Director roles as follows:

- **Executive Director of Adult Services and Health and Well Being**

**The budget for Adult Services accounts for almost 50% of the Council's budget and is under huge pressure due to rising costs and increasing demand. In these circumstances, it is absolutely vital that Adult Services and Public Health work closely together and with colleagues in the National Health Service. If this is to be achieved to the necessary degree, it is vital that there should be an Executive Director responsible solely for these two services reporting directly to the Chief Executive and Director of Resources.**

- **Executive Director of Education and Children's Services**

**Children's Services was classified as 'inadequate' by OFSTED and the reports following their periodic inspections still include criticisms particularly regarding the caseloads of individual social workers and the proper recording of information on the Council's computer system. A statutory Improvement Board has been established and improvements are undoubtedly being made but if the continued proper emphasis required to ensure the safety of Lancashire's children is achieved, it is vital that there should be an Executive Director responsible solely for Children's Services and Education reporting directly to the Chief Executive and Director of Resources.**

- **Executive Director of Growth Environment Transportation and Community Services**

**Economic Development is one of this Administration's high priorities and if the Council is to maximise the benefits achievable from the City Deal, the Growth Deal, Transport for the North and of course the Northern Powerhouse, without experiencing the pitfalls and drawbacks that have bedevilled several schemes to date, it is vital that there is an Executive**

**Director responsible for Economic Development and the associated services reporting directly to the Chief Executive and Director of Resources. It is also proposed that this Executive Director is also responsible for 'Community Services' – ie Highways, Public Transport, Waste Management and Libraries, Museums, Cultural Services and Registrars.**

### **Advice**

In relation to the post of Executive Director of Education and Children's Services, as OFSTED currently classify Children's Services as "inadequate", the Council receives regular monitoring visits to assess progress. Initial criticisms included in the inadequate judgement included caseloads for social workers and information and data systems.

The most recent visit in July 2017 had the most positive feedback and outcome yet. Whilst it was accepted that there is pressure on caseloads for social workers it was acknowledged that they are in the 'good' range compared with other local authorities and OFSTED have for a while now indicated that they have confidence in our data and systems.

Improvement has been the result of significant additional resource and a clear corporate focus; it has not been left to Children's Services to effect the improvement itself. Rather the whole County Council has seen it as their priority as well., A good example of this is the improvement in data and systems.

### **The Monitoring Officer Role**

Cabinet's proposals include the role of Monitoring Officer within the responsibilities of the post of Director of Corporate Services. Whilst it is proposed that this post-holder reports direct to the new Chief Executive and Director of Resources, it is not clear why the Monitoring Officer does not form part of the Council's Management Team, as is proposed for the s.151 Officer.

This issue is discussed further under Option B.

### **The reasons for urgency**

Cabinet's reasons for wishing to approve and implement a new senior management structure as soon as possible are set out and commented upon above. Whilst, for the reasons given above, officers do not accept much of the rationale that has been advanced for the need to re-structure and the reasons why this is "urgent", the Chief Executive has consistently made clear to the Leader and Cabinet that she and Management Team recognise Cabinet's right to propose changes to the existing structure, to align the operating structure to their policy priorities and to deliver savings.

Although the savings which Option A would achieve are less than in the other two Options presented, and are significantly less than envisaged in BOP 018, nevertheless Cabinet are entitled to balance the cost savings aspect against their

wishes to align the structure to how they think their proposals best deliver their political priorities.

However, the wish for the re-structure to be implemented as a matter of "urgency" does not detract from the need to ensure that a fair, open and transparent process is applied, particularly as regards the need for full consultation with the staff affected as described in the section on Human Resources Implications below.

### **The process for making appointments to the proposed structure**

Cabinet have now clarified that:

- the three new posts of Executive Director will be advertised internally within the Council. Any posts that remain unfilled will then be advertised externally;
- the Director level posts will be filled by a combination of direct appointments and ring fenced recruitment;
- any posts not filled by these arrangements will be advertised through normal procedures;
- They wish to appoint immediately an interim Chief Executive and Director of Resources to assist in the appointments to the three Executive Posts and in the change to the new management structure.

The Leader has also confirmed that the intention under Option A would be to appoint an Interim Chief Executive and Director of Resources for a 12 month fixed term, the appointment to be made by the Employment Committee, and that the recruitment process for a permanent appointment would commence within the 12 month period.

Comments on the proposals set out above relating to the process of making appointments to a new structure are provided in the Human Resources section of the report.

### **The appointment of an Interim Chief Executive and Director of Resources**

It is in the interests of the Council that the new Management Team is a cohesive unit and works effectively as a team. It is therefore vital that the person appointed to lead that team should play an advisory role in its appointment.

Under Option A, if approved, it is considered that an appointment to the post of Chief Executive and Director of Resources could reasonably be concluded by mid-December and the new post-holder would then be able to provide support to the Employment Committee in making appointments to the Executive Director posts which will form part of his/her management team.

Given this timescale, whether it is necessary to first appoint an Interim Chief Executive and Director of Resources is debatable. The use of an interim to support the appointment of the Executive Directors would mean that the new Management Team would not have been appointed by the person then recruited to lead them. Furthermore, as the Chief Executive would still be able to continue in that role pending the appointment of a permanent Chief Executive and Director of Resources,

the need for an Interim appointment, with the associated cost to the Council, could be avoided. This is matter within the discretion of Cabinet.

## **Option B**

The proposals shown at Appendix 'E', seek to encompass and build on the objectives and priorities set out by the leadership in the most effective way. They, in particular, address the key issues of strengthening the financial leadership of the Council, health and social care integration across all age groups and the key transitional issues for service users moving from children's to adults' services.

The key proposal is for the retention of a separate Chief Executive. For a local authority the size of Lancashire this is seen as a necessary pre-requisite to effective leadership and good governance.

It is proposed that the Management Team consist of the Chief Executive, three Executive Directors, as proposed by Cabinet, albeit with a different balance of responsibilities. The Management Team also includes the Director of Legal and Democratic Services as the statutory Monitoring Officer. The Monitoring Officer plays a critical role in the decision making of the Management Team and to remove that role as proposed under Option A would, in the Chief Executive's view, be ill advised.

In order to directly address the issues raised with respect to strengthening the financial leadership of the Council, it is proposed that an Executive Director of Resources be established, the role carrying with it the statutory responsibilities of the s.151 officer. This Executive Director would be support by two directors; a Director of Finance and a Director of Business Systems & Transformation.

### **Executive Director for Resources**

This provides the Executive Director for Resources with the levers on control in respect of:

- Finance
- Procurement
- Business Intelligence
- Internal audit
- Human Resources
- Facilities Management
- Learning & Development
- Business systems and Processes
- Transformation Programmes.

These are all the key functions with respect of financial control, efficient use of resources and the ability to transform the organisation in the context of addressing the financial challenges of the Council.

## **Executive Director for Health and Wellbeing**

It is also proposed that an Executive Director for Health and Wellbeing be established with a specific remit within the employee specification of the post for "Facilitating All-age Health and Social Care Integration" and "Integrated Commissioning with NHS Partners". This post would include responsibility for children's services, adults' services, and health and wellbeing.

Positioning Children's Services within the remit of Executive Director of Health and Wellbeing is important to ensure that the children's agenda is an upfront priority with health colleagues as integration develops. Currently the focus for integration is very much on adult services given the current budget and service pressures yet there is cross-party consensus with the Council that children's health services have not and are not being sufficiently prioritised. This issue was most recently highlighted at the Health and Wellbeing Board discussion in July 2017 on Child and Adolescent Mental Health provision. This proposed structure gives the Executive Director with lead responsibility for integration with health both the strategic and operational drive to champion the inclusion of children's services.

A key focus of the improvement work to stabilise Children's Services is demand reduction; safely and correctly reducing the number of children, young people and families who are dealt with by Children's Services both by providing early action services that catch concerns before they reach a serious level and providing a safe place for children, young people and families to 'step down' to rather than remain in high-end services. The proposed structure positions Wellbeing, Prevention and Early Help as part of Public Health within the remit of the Executive Director Health and Wellbeing to ensure that there is this clear alignment between children's services and early help. This replicates the current structure with the Council which has been positively reviewed by the Chair of the Improvement Board.

This will be the single biggest area for potential public service integration and addressing system level expenditure. It is across the entirety of this agenda that the opportunity for efficiencies and financial savings is greatest.

Cabinet has proposed a dedicated Executive Director post in respect of Children's Services. Whilst, as indicated, this would provide focus, it has the potential to reinforce silo thinking with respect to Children's Services and ignore the need to address the key issues in terms of transitions for service users between Children's and Adults Services. It also fails to recognise the all-age issues in relation to "troubled families" and the Wellbeing, Prevention and Early Help Services.

By retaining the three key functions of Adults, Children's and Public Health Service under a single Executive Director, this would provide the maximum opportunity for public service integration with key partners, in particular the NHS and Police.

The proposal would, in effect, remove the responsibilities for Community Services and Customer Access Services from the existing post of Corporate Director for Operations. This would free up considerable capacity of the post which would allow additional Executive Director level resources to be deployed into children's services.

## **Executive Director of Growth, Environment, Transport and Community Services**

It is also proposed to establish an Executive Director of Growth, Environment, Transport and Community Services as proposed under Option A, but with a revised director cohort beneath the Executive Director. It is proposed that there be a Director of Development & Planning which integrates all the development processes in relation to the delivery of major infrastructure project. Land-use planning and transportation is key to implementation of any major infrastructure project as demonstrated through the success of the City Deal and the Cuerden development site. Combining planning, estates, design and construction under a single Director will provide the Council with a powerful implementation capacity.

Cabinet has indicated that it wishes to move quickly to implement a new senior management structure. Given this imperative, the proposal set out in Appendix B provides a means of moving forwards quickly whilst reducing the Council's risks, maintaining effective corporate governance and meeting the stated priorities of the Administration.

Option C, below, provides a better opportunity to align the senior management structure to the future business and operating model of the Council. As the Financial and Corporate Strategies of the new Administration evolve, there is likely to be a need for a further restructure to effect any necessary realignment.

### **Option C**

Option C involves continuing with the approved policy of the Full Council with respect to the restructuring of the senior management. This position was set out in the budget option (BOP018) approved by Full Council in February 2016. Subsequent budget proposals and amendments have maintained this position, most recently on 20<sup>th</sup> July 2107. A copy of BOP 018 is attached at Appendix 'C'.

There is no budgetary implication of continuing with this option as the Council's approved budget makes provision for funding from reserves of all existing senior management posts until April 2018. Option C has the potential to deliver significantly greater financial savings than either Options A or B.

Budget Option 018 proposed a review of the Council's business and operating model and as a minimum a reduction in the number of Directors and Corporate Directors by 7 FTEs.

The revenue budget was reduced to reflect this reduction in number of posts from 1<sup>st</sup> April 2016, with provision being made from reserves to fund all posts until 31<sup>st</sup> March 2018. This was in recognition of the significant processes that needed to be undertaken to give effect to the proposal.

The proposal approved by Full Council involved the appointment of consultants to support the council in the redesign of its business operating model. As referenced earlier in the report, PWC were appointed to carry out this work which resulted in the Statutory Services Budget Review and the Lancashire Public Service Delivery Model

reports. It was clear from this work that a sustainable financial position for public services in Lancashire required a much broader approach than looking at the County Council in isolation. The integration of local government and NHS services was a key area of consideration.

For this reason the original timeline for consultation on a new management structure, originally set for April 2017, was not achieved. The PwC report was presented to Full Council on 23<sup>rd</sup> February 2017 who agreed as follows:

*Full Council was asked to receive the PricewaterhouseCoopers (PwC) report, "Lancashire Public Service Delivery Model, Interim Draft Report".*

*Following a period of debate, County Councillor Geoff Driver moved the following amendment which was seconded by County Councillor Albert Atkinson:*

*To refer the report back to PwC asking them for their final report so that it can be given meaningful consideration and proper consultations can take place with other interested parties.*

*The amendment was accepted by the Deputy Leader and, on being put to the vote it was CARRIED and it was:*

***Resolved:*** - *To refer the report back to PwC asking them for their final report so that it can be given meaningful consideration and proper consultations can take place with other interested parties.*

The new Administration has yet to advise officers how it wishes this resolution of Full Council to be taken forward. Given the materiality of this work to the future senior management structure as set out in BOP 018, there is a need to resolve the Council's policy position in relation to this work before effective proposals can be brought forward.

It should be noted that these matters were referred to the Leader, every Cabinet Member and every Lead Member for consideration, on the 9<sup>th</sup> June 2017, as part of the proposal for the *Development of the Corporate and Financial Strategies 2018/19 to 2021/2022*. (Appendix 'F') as referred to earlier in the report.

Option C, therefore, involves the development of the new Administration's Corporate and Financial Strategies to a point where a new business and operating model can be articulated. A new senior management structure can then be presented based upon those priorities and that model.

## **Consultation**

Whichever senior management structure is agreed by Cabinet, a number of existing staff at Director grade and above will be affected, and some will almost certainly be at risk of redundancy.

In those circumstances the staff concerned must be consulted and this consultation must be "meaningful". Cabinet are therefore advised that their decision must be on the basis that a new structure is approved for the purposes of consultation with the staff affected, the outcomes to be reported back to a future meeting of Cabinet for them to consider.

Staff must be given a reasonable time to respond, a position complicated by the fact that the consultation will commence during what is the peak holiday season with several of the staff affected being on holiday. Staff who are not available to be consulted may challenge the process.

A failure to consult adequately may well result in subsequent redundancies being unfair. ACAS guidance provides that whilst the meetings with staff affected are not negotiations, nor are they simply about telling employees how things are going to be. The guidance states that an employer must listen to the employees affected and genuinely consider their suggestions, even if these are not accepted.

To date, whilst most staff will be aware of Cabinet's wish to implement a new senior management structure, there has been no effective communication on the options set out in the report with the majority of the staff affected.

It is therefore recommended that Cabinet agree to a consultation period commencing immediately after their initial decision on a proposed new structure, the outcome to be reported to the meeting of Cabinet to be held on 14 September 2017. This allows for a consultation period of around three weeks with the staff affected.

### **Human Resources Implications**

The proposals under Options A, B and C all involve the potential compulsory redundancy of some employees. As part of the consultation therefore, employees need sufficient information to be able to assess how the proposals may affect them individually.

Whilst it is proposed that the final employee specifications for new roles within the senior management structure will be for the Employment Committee to agree, to enable employees to be able to judge how the proposal affect them and their employment rights, the generic employee specifications used by the Council for the Executive Director and Director roles are attached at Appendix ' G'. These should be read in combination with the proposals set out in the body of this report.

The Council has an established redundancy policy which would apply to the staff affected.

The Procedure provides that where there is no alternative other than to reduce staff numbers then, wherever possible, the approach will be to first seek volunteers for redundancy where this can be achieved without the loss of key skills to the Council.

The appointment process would then normally be by either direct appointment or a ring fenced recruitment process. It is normal practice to consult on the proposed ring fences and propose direct appoints ("slot-ins") as part of the consultation process.



Cabinet have confirmed that the proposals set out in Option A would follow this procedure.

Cabinet are recommended to follow normal practice as this will be transparent, fair and minimise risk of challenge. This would in no way guarantee posts for existing officers, but would follow the Council's redeployment policies in giving employees facing redundancy the opportunity to be considered first for any vacancies before the external recruitment process. The Employment Committee would therefore consider/interview potential candidates in the normal way and determine whether they have the knowledge, skills and abilities to fulfil the role to the standards set by the Committee.

### **Implementation Milestones**

The timeline below recognises the importance of having the new Chief Executive or Chief Executive and Director of Resources (s.151 Officer) appointed and available to advise Employment Committee in the appointment of the new Executive Director posts.

The timeline set out below applies to Options A and B. Under Option C, only the provisions set out below with respect to the appointments of Chief Executive or Chief Executive and Director of Resources (s.151 Officer) would apply. The timeline also addresses the proposed appointment of an Interim Chief Executive and Director of Resources if Cabinet decide that they still wish to proceed on this basis, notwithstanding the comments in the report with regard to this aspect of the proposal.

- A consultation period with employees and Trades Unions commencing on 21 August and concluding on Friday 8 September 2017
- Consideration of consultation responses and the preparation of final recommendation to Cabinet on the 14 September 2017.
- The commencement of the process for recruitment of a new Chief Executive or Chief Executive and Director of Resources (s.151 Officer) **OR**
- The commencement of the process for recruitment of an Interim Chief Executive or an Interim Chief Executive and Director of Resources (s.151 Officer)
- Employment Committee selection procedures for the appointment of the new Chief Executive or Chief Executive and Director of Resources (s.151 Officer)
- The newly appointed Chief Executive or Chief Executive and Director of Resources (s.151 Officer) **OR** an Interim Chief Executive and Director of Resources to be available to support Employment Committee in the appointment of the Executive Directors.

- New Chief Executive or Chief Executive and Director of Resources (s.151 Officer) and new Executive Directors in post.

## **Financial Implications**

The proposed structures under Option A and Option B have both been costed at mean of grade and would result in full-year savings of £244k or £269k respectively. The proposed savings are a result of a reduction of 2 FTEs and a changes in the mix of grades. Both options would fail to fully achieve the savings built into the Council's budget for 2018/19 under BOP018 (Option C) of £930,000.

As stated in the Human Resources implications, the proposals under Options A, B and C all involve the potential compulsory or voluntary redundancy of some employees. The related costs could be significant but will vary dependent on the individual circumstances of any employee who is ultimately made redundant. Following the outcome of the consultation, an estimated range of potential redundancy related costs will be included in the report to Cabinet on the 14 September.

Given that Option C would involve a greater reduction in post numbers the redundancy cost would most likely be highest under Option C. The current MTFs envisages redundancies resulting from BOP018 and there is provision within the downsizing reserve to cover redundancy costs under any of the options.

The cost of an interim Chief Executive and Director of Resources for 12 months is likely to represent an additional cost, as compared to the current structure, and will need to be funded from the transitional reserve.

## **Legal implications**

The process by which Cabinet's proposals have been brought forward necessitated taking external legal advice from Counsel and subsequently Leading Counsel to enable the Council's statutory officers to advise the Cabinet and also to ensure that the statutory officers themselves have fulfilled their statutory obligations.

This report has also been referred to Leading Counsel for further advice to confirm that a decision taken by Cabinet based on the advice contained in this report is likely to be lawful.

Leading Counsel has stated that the process to be followed by Cabinet in reaching a decision based on the advice contained in this report is likely to be lawful, but that the decision could nevertheless be subject to legal challenge by way of judicial review based on usual public law principles. Leading Counsel has advised that such a challenge could potentially be brought by any person or organisation who has the necessary legal standing, which he considers would include any Lancashire council tax payer. There are clear risks attendant upon the introduction of a new structure, particularly that envisaged under Option A. The advice within the report with regard to the process for making appointments to the structure is intended to mitigate those risks as far as is practicable.

Further, this report does not provide any assurance to Cabinet in relation to the risks to the Council that may arise in respect of the position of individual officers who may consider that they have a civil claim or claims against the Council as a result of Cabinet's decision.

Cabinet are also advised that any proposal to appoint or dismiss any of the Council's Statutory Officers (the Head of the Paid Service, the Monitoring Officer and the s.151 Officer), including a dismissal by reason of voluntary redundancy, must be made in accordance with the Council's Constitution which reflects legislative requirements in this regard.

Where such circumstances arise the Employment Committee will be provided with the necessary advice from them to ensure that any appointment or dismissal is made in accordance with these legal requirements.

- **Risk management**

As set out in the report

### **Local Government (Access to Information) Act 1985 List of Background Papers**

Paper	Date	Contact/Tel
PWC Report : Statutory Services Budget Review	23 September 2016	Chris Mather, 01772 533559
PWC Report: Lancashire Public Service Delivery Model	9 <sup>th</sup> January 2017	Chris Mather, 01772 533559