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HUMAN RESOURCES & COUNCIL TAX COMMITTEE

24 FEBRUARY 2025

REPORT OF HEAD OF PEOPLE

A.2 UPDATE ON REVIEW OF CHANGES TO THE CHIEF EXECUTIVE'S TERMS AND CONDITIONS *(Prepared by Katie Wilkins)*

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To inform the Human Resources & Council Tax Committee of the findings from the review of the previously agreed changes to the Chief Executive's terms and conditions, conducted by the Human Resources Sub-Committee Panel during its meeting on 8 August 2024 (Minute 9 refers).

To notify the Human Resources and Council Tax Committee of the Leader of the Council's proposal to reinstate the Chief Executive's full-time working hours in light of the significant demands of Devolution and Local Government Reorganisation.

EXECUTIVE SUMMARY

At its meeting on the 8 August 2024, the Human Resources Sub-Committee Panel received a report in respect of current terms and conditions of employment of the Chief Executive and, specifically, the reduced working hours (*of 27.75 hours per week*) approved by Council on 25 January 2022 (Minute 118 refers). The substantive post on the Council's establishment remains at 37 hours per week. In approving the reduced working hours arrangement for the post holder (Ian Davidson), Full Council determined that there should be annual reviews of the operation of the revised working hours arrangement.

In deciding to review the operation of the revised working hours arrangement for the current post holder, the Council did not specify the mechanism for this review. To advance this process, it was determined that the composition of the Human Resources Sub-Committee Panel, as established by the Council, along with their role outlined for the Sub-Committee in the Officer Employment Procedure Rules concerning Statutory Officers, constituted the most effective approach for conducting the review.

The Panel was composed of the Leader of the Council, the Deputy Leader of the Conservative Group and the Group Leader of the Independent Group (*and Chairman of the Human Resources and Council Tax Committee*). It also had the benefit of the presence and insight of Councillor Calver (*a member of the Labour Group and Vice Chairman of the Human Resources and Council Tax Committee*).

The special nature of the post of Chief Executive means that the terms and conditions are set by the Joint National Committee for Local Authority Chief Executives, as set out in the Chief Executives' Handbook, and locally agreed by Full Council, following the advice and recommendations of the Human Resources and Council Tax Committee.

To assist the Panel in undertaking the review, the Panel was presented with the statements of the former Leader of the Council, Councillor Neil Stock OBE, from the time of the original

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request to reduce the contractual working hours, as well as written representation from Councillor John Spence CBE, Chairman of the Essex Health and Wellbeing Board. Additionally, the Panel was apprised of Mr Davidson's notable achievements during his tenure as the Council's Chief Executive, and reference was made to his nomination for an award from the Suffolk and North Essex Integrated Care System.

The Panel was also informed that, unless otherwise agreed, the Chief Executive remains fully committed to Tendring District Council, adhering to whole-time service, with specific operational arrangements coordinated with the Leader.

It was moved by Councillor Mark Stephenson, seconded by Councillor Carlo Guglielmi, and unanimously:

RESOLVED that:

- (i) the position in respect of terms and conditions of employment of the post holder be noted;
- (ii) the following outcome of the review undertaken by the Panel of the operation of the current terms and conditions of the post holder be reported to the Human Resources and Council Tax Committee:
 - (a) no alteration to the terms and conditions of employment was required and, as such, the current terms and conditions do not need to be amended;
 - (b) the annual review determined by Council on 25 January 2022 be discontinued on the basis that the exercise of the review appeared to have no identifiable value to the Council going forward and there was a separate annual appraisal process for the post holder undertaken by the Leader; and
 - (c) the thanks of the Panel for the valuable and enduringly positive contribution of the post holder to the Council be recorded.

Since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment (*as outlined above*) Essex Devolution and Local Government Reorganisation (LGR) has been announced.

Devolution involves the transfer of powers and funding from central government to local authorities, enabling decisions to be made closer to the communities they affect.

Local Government Reorganisation, focuses on restructuring local government to create simpler, more efficient council structures. In Essex, this would involve replacing the current two-tier system, where services are split between Essex County Council and 12 city, borough, or district councils, with a number of unitary authorities responsible for all local services. This reorganisation aims to drive economic growth and deliver better public services by creating clearer accountability and more streamlined operations.

Essex has been agreed to be part of Phase 1 of this initiative, highlighting its commitment to these transformative changes. The process includes submitting interim plans, followed by full proposals, with the goal of establishing new unitary councils by 2028.

The Chief Executive's role is considered critical in the formation and implementation of these proposals for Tendring. Given his essential role, the Leader of the Council has requested that the Human Resources and Council Tax Committee review the previously agreed reduction to his working hours and endorse, (*also recommending to Full Council*) that this is reversed to

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support his continued leadership and involvement in these significant initiatives.

Also, following the decision of Full Council at its meeting on 21 January 2025, whereby Full Council 'mandates the Leader of the Council and Chief Executive to seek to ensure that the voice of Tendring (and north Essex more generally) is as strong as possible in any negotiations around devolution and local government reorganisation recognising its opportunities and challenges' (Minute 94 refers).

RECOMMENDATION(S)

The Human Resources and Council Tax Committee:

- (a) note and endorse the request from the Leader of the Council to reinstate the Chief Executive's full time working hours in light of the demands of Devolution and Local Government Reorganisation;**
- (b) subject to (a) above, notes a special dispensation is required to alter the terms and conditions of employment of the Chief Executive (*due to the special nature of this role*) in relation to the Council's Flexible Retirement Policy and its application, which reinstates the Chief Executive's full-time working hours as soon as is practical;**
- (c) subject to (a) and (b) above, recommends that Full Council:**
 - I. considers the request from the Leader having been supported by the Human Resources and Council Tax Committee, to reinstate the Chief Executive's full-time working hours;**
 - II. agrees to grant the special dispensation to the Council's Flexible Retirement Policy and its application to the Chief Executive, in his role at this time due to Devolution and Local Government Reorganisation;**
 - III. subject to (i) and (ii) agrees the reinstatement to full time working hours as soon as is practical;**
 - IV. that the annual review as determined by Council on 25 January 2022 be discontinued on the basis that the exercise of the review is unnecessary, given that there is a separate annual appraisal process for the post holder undertaken by the Leader; and**
 - V. the thanks of the Council for the valuable and enduringly positive contribution of the post holder to the Council be recorded.**

REASON(S) FOR THE RECOMMENDATION(S)

Recommendation ((c) IV & V) are supported by the Human Resources Sub-Committee Panel following its review of the previously agreed modifications to the Chief Executive's terms and conditions of employment.

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The committee considered that the annual appraisal process, conducted by the Leader of the Council, makes further formal review unnecessary. This approach aligns with statutory guidance on appraisals for the Chief Executive - the Chief Executive Handbook confirms that the decision to appraise the Chief Executive's performance should be made locally, considering local circumstances. It also specifies that the appraisal can be carried out either by a small committee representing all political groups, or by a senior representative, or representatives of the controlling group.

Since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment Essex Devolution and Local Government Reorganisation (LGR) has been announced. The Chief Executive's role is considered critical in the formation and implementation of these proposals for Tendring.

The terms and conditions of employment for the Chief Executive are approved by Full Council upon the recommendations of the Human Resources and Council Tax Committee (Part 3.10).

ALTERNATIVE OPTIONS CONSIDERED

If a review was not undertaken, this would be contrary to the decision of Full Council, which requested the review at its meeting on 25 January 2022.

The Human Resources & Council Tax Committee could choose not to support the request of the Leader to revisit the Chief Executive's working pattern, however for the reasons outlined in this report, the Chief Executive's role is considered critical in the formation and implementation of the Devolution/Local Government Reorganisation proposals for Tendring – ensuring that Tendring is put in the best possible place for both its residents and staff.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

A formal review of the Chief Executive's flexible working arrangements provides transparency for the residents of Tendring, therefore, contributing to the Corporate Plan 2024/28 priority of 'Financial Sustainability and Openness'.

In line with legislative changes and best practices, the Council has developed to enable more flexible ways of working; this includes enabling staff to request reductions in hours and varied work patterns, improving its ability to recruit talented individuals, and thus contributing to the Corporate Plan 2024/28 priority of 'Pride in our Area and Services to Residents'.

These policies encompass the Council's Flexible Working Policy and the Flexible Retirement Policy.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The role of the Head of Paid Service in a local Authority is governed by the Local Government and Housing Act 1989. According to Section 4 of this Act, every relevant local Authority must designate one of their officers as the Head of Paid Service. This position is crucial for ensuring the effective coordination and management of a local Authority's functions and staff.

The terms and conditions of employment for the Chief Executive are approved by Full Council

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upon the recommendations of the Human Resources and Council Tax Committee (*Part 3.10*).

The Chief Executive Handbook confirms that the decision on whether to appraise the Chief Executive's performance should be made locally, in light of local circumstances, and whether the appraisal should be carried out by a small committee representing all political groups or by a senior representative or representatives of the controlling group.

Appendix 2 of the Handbook provides guidance on appraisals for the Chief Executive. While this review by the Committee is not an annual appraisal process (*which is managed by the Leader or Deputy Leader*), the guidance is of assistance in that it states the process should not be complex.

In deciding to review the operation of the revised working hours arrangement for the current post holder, the Council did not specify the mechanism for this review. To advance this process, it was determined that the composition of the Human Resources Sub-Committee Panel, as established by the Council, along with their role outlined for the Sub-Committee in the Officer Employment Procedure Rules concerning Statutory Officers, constituted the most effective approach for conducting the review process.

As part of the review, the Human Resources Sub-Committee Panel considered both the Chief Executive's leadership and his significant contribution to the continuous improvement of the Council and public services more broadly.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The cost of this arrangement can be met from existing budgets without any wider financial implications. The existing budget remains based on the post of the Chief Executive being full time (*37 hours per week*).

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expects the following matters to be demonstrated in the Council's decision-making:

- A. Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;
- B. Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and
- C. Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.

As such, outline the pertinent facts for the proposal in this section of the report.

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Tendring District Council recognises that in the context of managing public resources, remuneration at all levels needs to be of an adequate level to secure and retain high-quality employees dedicated to the service of the public while ensuring value for money to the public purse.
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<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</p>	<p>The Council is a best-value Authority and must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The Best Value Duty is relevant to local Authority duties to deliver a balanced budget, provide statutory services, and secure value for money in spending decisions.</p> <p>The role of Chief Executive is fundamental to achieving this.</p>
<p>C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.</p>	<p>The Council's ambition, through both its corporate plan and its people strategy is to contribute to building a more prosperous local community.</p>
MILESTONES AND DELIVERY	
<p>(a) Human Resources and Council Tax Committee: 24 February 2025 (b) Full Council 25 March 2025</p>	
ASSOCIATED RISKS AND MITIGATION	
<p>Successful recruitment and retention of the Chief Executive role is critical to the Council's effective running. By ensuring that the post has potential access to the Council's employment policies, it can remain attractive to high-quality personnel.</p>	
OUTCOME OF CONSULTATION AND ENGAGEMENT	
<p>The Human Resources Sub-Committee Panel concluded that, following their comprehensive review, no changes to the terms and conditions of employment are necessary. Additionally, the panel recommended discontinuing the annual review established by the Council on 25 January 2022, as a separate annual appraisal process for the post holder is conducted by the Leader.</p> <p>However, since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment Essex Devolution and Local Government Reorganisation (LGR) has been announced.</p> <p>It is considered that the Chief Executive has a fundamental role in the formation and implementation of these proposals for the Tendring district.</p> <p>A comprehensive consultation has been conducted with the local Unison Branch Executive, who fully support the proposed amendment to the Chief Executive's working arrangements in light of Devolution/Local Government Reorganisation.</p>	
EQUALITIES	
<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <p>(a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act</p>	

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(b) Advance equality of opportunity between people who share a protected characteristic and those who do not

(c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

The Council's personnel policies are fully inclusive, ensuring compliance with our public sector equality duty.

The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

SOCIAL VALUE CONSIDERATIONS

Social Value is defined through the Public Services (Social Value) Act 2012 and requires all public sector organisations (and their suppliers) to look beyond the financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.

As a major local employer, the Council strives to lead by example. This includes, following recognised best practices and keeping up to date with legislation.

Examples of this include, being a Disability Confident Leader and an Employer Recognition Scheme Gold Award holder; both commit the Authority to be an advocate in these areas.

The Council is also an Anchor organisation. Anchor organisations are usually large organisations that are local to the place they operate and have the leverage to maximise social value through their role as workplace developers, employers and procurers, their core businesses (*for example, health and education*), and the linkages they have to the place they operate.

Finally, the Council seeks to promote growth and development opportunities for all within a community and ensure that they have access to opportunities to develop new skills and gain meaningful employment. This is further supported and evidenced via the organisation's commitment to apprenticeships and its Career Track service.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

This report has no direct implication on the Council's aspiration to be net zero.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	N/A
Health Inequalities	N/A
Area or Ward affected	None directly.

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ANY OTHER RELEVANT INFORMATION

Minutes of the Human Resources & Council Tax Committee Meeting 5 January 2022:

<https://tdcdemocracy.tendringdc.gov.uk/documents/g1930/Printed%20minutes%2005th-Jan-2022%2019.30%20Human%20Resources%20and%20Council%20Tax%20Committee.pdf?T=1>

Report:<https://tdcdemocracy.tendringdc.gov.uk/documents/s46204/A1%20Report%20-%20Terms%20and%20Conditions%20of%20Chief%20Executive.pdf>

Minutes of the Full Council Meeting 25 January 2022:

<https://tdcdemocracy.tendringdc.gov.uk/documents/g1918/Printed%20minutes%2025th-Jan-2022%2019.30%20Council.pdf?T=1>

Report:<https://tdcdemocracy.tendringdc.gov.uk/documents/s46529/A4%20Reference%20Report%20-%20Chief%20Executive%20Terms%20and%20Conditions.pdf>

Minutes of the Human Resources Sub-Committee Panel 8 August 2024:

<https://tdcdemocracy.tendringdc.gov.uk/documents/g2544/Printed%20minutes%2008th-Aug-2024%2015.30%20Human%20Resources%20Sub-Committee%20Panel.pdf?T=1>

Minutes of the Full Council Meeting 21 Jan 2025

<https://tdcdemocracy.tendringdc.gov.uk/documents/g2410/Printed%20minutes%2021st-Jan-2025%2019.30%20Council.pdf?T=1>

Report:<https://tdcdemocracy.tendringdc.gov.uk/documents/s72750/A1%20Report%20-%20Devolution%20and%20LGR%20proposals.pdf>

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The terms and conditions of employment for Chief Executives in local authorities are nationally agreed through the Joint Negotiating Committee for Local Authority Chief Executives. The last update to the Chief Executives' National Salary Framework and Conditions of Service occurred in September 2022. This handbook provides guidance for senior Elected Members and the Chief Executive when establishing a process for appraising the Chief Executive's performance.

The current post holder has been in their position since December 2010. In the intervening years, the Council's practices have evolved in alignment with legislative changes and best practices, allowing for more flexible work arrangements. This includes enabling staff to request reductions in hours and varied work patterns.

The Human Resources and Council Tax Committee, during its meeting on 5 January 2022 (Minute 79), considered a joint report from the Deputy Chief Executive and the Assistant Director (Partnerships). The report included a request from the current Chief Executive post holder to reduce their hours of employment by 25%.

Having considered the Chief Executive's request and its implications for this Council, it was resolved that the Committee:

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- a) notes the request of the current Chief Executive to reduce his hours of employment from 37 hours to 27.75 hours.
- b) supports the request, acknowledging the reduction of the Chief Executive's availability and that additional cover will not be provided for the reduction in working hours; and
- c) recommends to Full Council that:
 - i. the terms and conditions of the employment of the current Chief Executive shall be amended to 27.75 hours per week with effect from 31st March 2022;
 - ii. this change be reviewed after an initial period of six months operation and then at twelve-month intervals following that; and
 - iii. the post will remain at 37 hours on the Council's establishment.

Full Council later considered this matter at its meeting on 25 January 2022 (Minute 118 refers), and resolved that the Council approve:

- i. the terms and conditions of the employment of the current Chief Executive be amended to 27.75 hours per week with effect from 31st March 2022;
- ii. this change be reviewed after an initial period of six months operation and then at twelve-month intervals following that; and
- iii. the post will remain at 37 hours on the Council's establishment.

The terms of conditions of service of the Chief Executive are reserved to Full Council, as per the Constitution, following recommendations of the Human Resources and Council Tax Committee (Part 3.10), however, in requesting the review no process was set by Full Council.

At the time of the decision of Full Council no mechanism was articulated regarding the review, therefore, for the reasons outlined elsewhere in this report, it was proposed that the Human Resources Sub-Committee Panel conducted this review and following this, the Panel will report the outcome to the Human Resources and Council Tax Committee for their recommendation to Full Council.

Since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment Essex Devolution and Local Government Reorganisation (LGR) has been announced. The Chief Executive's role is considered critical in the formation and implementation of these proposals for Tendring.

Therefore, in line with the mandate agreed by Full Council at its meeting 21 January 2025 that *'the Leader of the Council and Chief Executive to seek to ensure that the voice of Tendring (and north Essex more generally) is as strong as possible in any negotiations around devolution and local government reorganisation recognising its opportunities and challenges'*, the Leader of the Council has asked the Human Resources & Council Tax Committee to consider the reinstatement of the Chief Executive's full time working hours in light of the demands of Devolution and Local Government Reorganisation, whilst also granting a special dispensation to alter the terms and conditions of employment of the Chief Executive (*due to the special nature of this role*) in relation to the Council's Flexible Retirement Policy and its application.

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PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.
Human Resources and Council Tax Committee - 5 January 2022 Full Council - 25 January 2022 Human Resources Sub-Committee Panel - 8 August 2024 Full Council – 21 Jan 2025
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
Chief Officer Structure Chart.

APPENDICES
N/A

REPORT CONTACT OFFICER(S)	
Name	Katie Wilkins
Job Title	Head of People
Email/Telephone	kwilkins@tendringdc.gov.uk 01255 686315