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To: Councillor Laing, Convener; and Councillors Boulton, Cameron, Cooney, Crockett, Dickson, Jackie Dunbar, McCaig, Noble, Taylor, Thomson, Young and Yuill.

Members are reminded that substitutes are permissible and should be used if necessary.

Town House,
ABERDEEN, 27 January 2015

URGENT BUSINESS COMMITTEE

The Members of the **URGENT BUSINESS COMMITTEE** are requested to meet in Committee Room 2 - Town House on **WEDNESDAY, 28 JANUARY 2015 at 3.30pm.**

JANE G. MACEACHRAN
HEAD OF LEGAL AND DEMOCRATIC SERVICES

BUSINESS

- 1 Determination of Urgent Business
- 2 Establishment of Appointment Panel in respect of the post of Head of Legal and Democratic Services (Pages 1 - 4)

Should you require any further information about this agenda, please contact Martyn Orchard 01224 523097 or email morchard@aberdeencity.gov.uk

Briefing for Elected Members on the Importance of EHRIAs

As an elected member, you will know you have an important role to play in championing equality within and outside Aberdeen City Council. There is also a scrutiny role for you to ensure that equality considerations are included in the decision making and governance of the council.

In exercising your duties as an elected member, you will make decisions which shape the council budget as well as the practice, strategies, plans and policies of the council. You have to make sure that the relevant equality implications are considered and so need to have sufficient information to satisfy our legal requirement to pay “due regard” to equality. Since public authorities subject to the equality duties are also likely to be subject to the obligations under the Human Rights Act, our impact assessment tool also considers the potential impact our decisions could have on human rights – Equality and Human Rights Impact Assessment (EHRIA).

EHRIA forms are included in the agenda pack, and this is important as it ensures that the impact of any proposals being considered by the Committee is clear at the point of decision making. These are included at the back of the report, as an appendix. Committee members should feel able to ask questions of report authors in relation to EHRIA forms, including questions about why an impact assessment has not been carried out/is not included.

There is an onus on elected members to make sure that EHRIAs are robust and give appropriate weighting in decision-making processes. In recent guidance from the Equality and Human Rights Commission, relevant case law examples show the Courts stating that, the public authority had to demonstrate that it had paid ‘due regard’ to its equality obligations.

Policies and practices should be assessed for impact across the three parts of the public sector duty (eliminate unlawful treatment, advance equality of opportunity and foster good relationships).

These duties do not prevent us from taking many difficult decisions such as reorganisations and relocations, redundancies, and service reductions, nor do they stop us from making decisions, that may affect one group more than others. Whilst we have a duty to involve groups of people who have protected characteristics, this does not give them the right of veto regarding any of our budget proposals or other council decisions.

What the equality duties do is enable us to demonstrate that we are making decisions in a fair, transparent and accountable way, considering the needs and the rights of different members of our communities.

The EHRIA will allow you to see that people with protected characteristics are enjoying equal access to our services, and where they are not, or are over/under-represented, or are not getting as good a service, the EHRIA gives the opportunity to do something to resolve the situation.

The equality target groups, or people with protected characteristics, include age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation.

The sort of questions to ask yourself as you read an EHRIA might include:

- How might the proposal impact on ethnic minority communities, including Gypsy/Travellers?
- How might the proposal impact on people with a disability?
- Would the impacts on women and men or the Transgender community differ?
- Would the proposal affect ethnic minority women and men in the same ways?
- Would the proposal affect women and men with disabilities in the same ways?
- What about age considerations when thinking about impacts?

It is important to remember that the potential impact is not just about numbers. Evidence of a serious impact on a small number of individuals is just as important as something that will impact on many people. You should also think about how individual proposals might relate to one another. This is because a series of changes to different policies or services could have a severe impact on particular protected groups.

The EHRIA is therefore an invaluable tool to assist you in ensuring that the interests of all groups are properly taken into account when difficult choices about resources are required.

A case study on “Southall Black Sisters – the need to impact assess decisions” is set out below.

Southall Black Sisters (SBS) provides specialist services to Asian and Black Caribbean women, particularly in relation to domestic violence issues.

In June 2007, Ealing council announced proposals to move away from funding particular organisations (such as SBS), towards commissioning services (including domestic violence services) following a competitive bidding exercise.

During discussions about criteria for commissioning domestic violence services SBS had highlighted the adverse impact the criteria could have on pre-existing domestic violence services provided to women from ethnic minority communities, and so an equality impact assessment should be carried out.

Ealing carried out belated impact assessments on proposals before deciding to proceed with the existing domestic violence services commissioning criteria, resulting in two SBS service users launching a judicial review of the decision.

Ultimately, Ealing conceded these submissions and withdrew from the case. However, in an oral judgement, Lord Justice Moses reiterated the importance of undertaking an equality impact assessment, and also the importance of carrying out an impact assessment before policy formulation.

Should you require any help with EHRIAs please contact me at sandrab@aberdeencity.gov.uk or 01224 523039 or Faiza at fnacef@aberdeencity.gov.uk or 01224 523183.

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ABERDEEN CITY COUNCIL

COMMITTEE	URGENT BUSINESS COMMITTEE
DATE	28 January 2014
DIRECTOR	Ewan Sutherland - Acting Director Corporate Governance
TITLE OF REPORT	Establishment of Appointment Panel in respect of the post of Head of Legal & Democratic Services
REPORT NUMBER:	CG/15/17

1. PURPOSE OF REPORT

This report seeks approval for the setting up of an appointment panel in respect of the post of Head of Legal and Democratic Services.

2. RECOMMENDATION(S)

That the Committee agrees to –

- (1) establish an Appointment Panel comprising 9 members in total (3+3+1+1+1) to appoint to the Head of Legal and Democratic Services including the Convener of the Finance, Policy and Resources Committee who should be appointed as Convener of the Appointment Panel;
- (2) delegate powers to the Appointment Panel to agree all matters relating to the recruitment process, including role profile, person specification and salary;
- (3) in respect of the timescale for recruitment processes, that powers be delegated to relevant officers to finalise this timeline, in consultation with the Panel convener;
- (4) appoint external recruitment consultants for the purposes of supporting the recruitment to the post where appropriate;
- (5) invoke Standing Order 1(6)(a) of the Council's Standing Orders relating to Contracts and Procurement to dis-apply the requirements of Standing Order 5, thereby allowing a contract to be entered into with the recruitment consultants to support the recruitment process for this post, without the need to undertake a competitive tendering exercise;
- (6) the estimated expenditure associated with this recruitment exercise, which is estimated to be no more than £50,000, and that these costs be met from contingencies.

3. FINANCIAL IMPLICATIONS

During the financial year the Council has recruited to the position of Chief Executive, made an abortive attempt to recruit to the post of Director of Corporate Governance and recruited to five vacant Head of Service posts arising from the Council restructure. The budget allocation held for Chief Officer recruitment is only sufficient to cover one appointment per financial year. Therefore additional monies need to be identified and approved for this recruitment and selection process. It is estimated the full costs for this recruitment process, including costs of appointing of external recruitment consultants, running the assessment centre and the purchase and administration of psychometric tests, candidate expenses etc. should be no more than £50,000. It is recommended this unbudgeted cost be met from Council contingencies.

4. OTHER IMPLICATIONS

- 4.1 In 2009, the Council undertook a procurement exercise and a framework agreement for the provision of recruitment services was put in place. A Call-Off Contract for the appointment of up to 21 Heads of Service was awarded to Munros Consulting. However, this recruitment consultants framework expired in October 2012 and to date has not been retendered and therefore cannot be used to obtain the required external recruitment services. Munros Consulting has been rebranded and now call themselves Aspen People Ltd.

It is now requested that Standing Order 1(6)(a) of the Council's Standing Orders Relating to Contracts and Procurement be invoked to allow a new contract to be entered into with Aspen People without the need to seek four quotes in accordance with Standing Order 6 or to undertake a competitive tendering exercise in accordance with Standing Order 5. It is estimated that the value of the Aspen People Ltd Contract will be £30,000 for this recruitment. Ordinarily, where the Council wants to put in place any contract for services with a value below £60,000, the Standing Orders require four written quotes to be sought. Where the estimated value of the contract is above £60,000, a competitive tendering exercise must be undertaken. Matters are slightly complicated here by virtue of aggregation.

Whilst the estimated expenditure is considerably less than the current EU threshold for services contracts (£173,934), the Council has to take account of the aggregation rules, both in terms of its own Standing Orders, but more importantly in terms of compliance with the Public Contracts (Scotland) Regulations 2012 ("the Regs"). Regulation 8(11) requires that where the Council is letting a number of contracts which are part of or arise from a "single requirement" then the value of each contract needs to be aggregated and where the aggregate value exceeds the EU threshold then each constituent/individual contract should be the subject of a tender which is EU compliant.

The "single requirement" here is the provision of recruitment support/consultancy services. Over the last year the Council has expended money on the filling of vacancies including the Chief Executive, Director of Corporate Governance etc. When these costs are aggregated then the expenditure within this report takes

the Council beyond the £60,000 limit and closer to the EU threshold. In these circumstances, the need for transparency and equal treatment increases, and to negate any procurement risk, the Council should undertake some form of competitive exercise in order to comply with its EU Treaty requirements of “a degree of advertising and competition”. However, this would take a number of months and the services believe that there is a greater risk to delaying the appointment process than failing to comply with Regulation 8(21).

As mentioned above, in these circumstances the Council would normally undertake a competitive procurement in terms of Standing Order 5. However, if the Council is satisfied that there are special circumstances to exempt any Contract from these requirements, Standing Order 1(6)(a) can be invoked.

It is felt that this current arrangement justifies invoking Standing Order 1(6)(a), thereby enabling the Council to set aside the need for compliance with the tendering requirements of Standing Order 5, by virtue of special circumstances as there is a time pressure to commence the recruitment process as soon as possible. Tendering would delay this process. Furthermore, Aspen People have supported the Council in all Chief Official appointments for the previous 5 years. It should also be noted that officers have commenced work in conjunction with colleagues in Legal Services and the Central Procurement Unit with a view to retendering the recruitment consultancy/support services.

5. BACKGROUND/MAIN ISSUES

5.1 After almost 27 years loyal and distinguished service to the Council (and its predecessor authorities) it has been mutually agreed for the current Head of Legal and Democratic to vacate the post on 6 April 2015. In order to minimise the time the Council has without this important post, it is requested that an appointment panel is immediately established to undertake the appointment to the post.

- (i) **Composition and chairing arrangements** – establish an Appointment Panel comprising 9 members in total (3+3+1+1+1) to appoint to the Head of Legal and Democratic Services including the Convener of the Finance, Policy and Resources Committee who should be appointed as Convener of the Appointment Panel;
- (ii) **Delegation of powers to Appointment Panel** – In the interests of accelerating the recruitment process, it is suggested that powers be delegated to the Appointment Panel on all matters relating to the recruitment process. This will include salary details and the role profile for the post. During the recruitment process and it is recommended that the services of Aspen People be secured to provide the Panel with expertise of executive search, supporting the appointment process and candidate administration.
- (iii) **Timeline** –The current indicative timeline is as follows. The Committee may wish to note that it is the intention to advertise this post alongside those of the Director of Corporate Governance and the Head of IT and Transformation -

Week ending 6 February 2015	Post advertised and executive search process begins
Week Commencing 2 March 2015	Closing date for receipt of applications
Week Commencing 9 March 2015	Appointment Panel meet to agree a shortlist of candidates
Week Ending 23 March 2015	Assessment Centre and Appointment Panel meet to interview candidates

- (iv) **Remuneration package/role profile**– It is proposed to authorise the Appointment Panel to agree the role profile at their first meeting.

6. IMPACT

Recruitment to this post will be of interest to all partner organisations and the wider general public.

This post currently carries responsibility for the statutory Monitoring Officer role. This role will have to be temporarily reassigned between the period when the current incumbent leaves employment and the date the new appointee takes up duties.

7. RISK MANAGEMENT

There are risks if this post remains vacant for some time as it holds the Monitoring Officer role for the Council.

8. BACKGROUND PAPERS

None

9. REPORT AUTHOR DETAILS

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