

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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