

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM:

**REPORT TO CABINET
17th MAY 2012**

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Corporate Management and Finance – Lead Cabinet Member – David Harrington

Children and Young People - Lead Cabinet Member – Ann McCoy

Adult Services and Health – Lead Cabinet Member – Jim Beall

STATUTORY GUIDANCE ON THE ROLES AND RESPONSIBILITIES OF THE DIRECTOR OF CHILDREN'S SERVICES AND THE LEAD MEMBER FOR CHILDREN'S SERVICES

1. Summary

The Secretary of State has issued new statutory guidance in relation to the roles and responsibilities of the Director of Children's Services and the Lead Member of Children's Services. Local authorities in England must have regard to it in relation to the appointment of the Director of Children's Services (DCS) and the designation of the Lead Member for Children's Services (LMCS). The new guidance replaces the previous two versions issued in 2005 and 2009 and is intended to be reviewed on an annual basis. An assessment of compliance with the statutory guidance in relation to the organisational structure has been carried out and the required assurances made using the council's risk assessment methodology.

2. Recommendations

- i. Cabinet note the detail of the revised statutory guidance and that the necessary assurances have been conducted.

3. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting.

And must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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SUMMARY

1. The Secretary of State has issued new statutory guidance in relation to the roles and responsibilities of the Director of Children's Services and the Lead Member of Children's Services. Local authorities in England must have regard to it in relation to the appointment of the Director of Children's Services (DCS) and the designation of the Lead Member for Children's Services (LMCS). The new guidance replaces the previous two versions issued in 2005 and 2009 and is intended to be reviewed on an annual basis. An assessment of compliance with the statutory guidance in relation to the organisational structure has been carried out and the required assurances made using the council's risk assessment methodology.

RECOMMENDATIONS

- i. Cabinet note the detail of the revised statutory guidance and that the necessary assurances have been conducted.

BACKGROUND

1. New statutory guidance in relation to the roles and responsibilities of the Director of Children's Services and the Lead Member for Children's Services has been issued by the Secretary of the State.
2. Local authorities are required to pay regard to the guidance in relation to the appointment of the Director of Children's Services and the Lead Member for Children's Services.
3. The guidance covers the legislative basis for the two appointments, roles and responsibilities of the post holders and how this relates to Government expectations about the local authorities role in relation to children and young people's services.
4. The guidance replaces the previous versions, issued in 2005 and 2009. The guidance will be *reviewed* on an annual basis to check whether it is still fit for purpose; but it will only be *revised* if it is no longer considered to be fit for purpose.
5. The guidance is issued under sections 18(7) (Director of Children's Services) and 19(2) (Lead Member for Children's Services) of the Children Act 2004. This means that local authorities must have regard to it and, if they decide to depart from it, they will need to have clear reasons for doing so.

6. The DCS and LMCS are appointed for the purposes of discharging the education and children's social services functions of the local authority. The functions for which they are responsible are set out in section 18(2) of the Children Act 2004. This includes (but is not limited to) responsibility for children and young people receiving education or children's social care services in their area and all children looked after by the local authority or in custody (regardless of where they are placed).
7. The guidance states that within this legal framework it is legally permissible for local authorities to determine their own arrangements and organisational structures in line with local circumstances but there must be a single officer and single Elected Member each responsible for both children's education and social care.
8. The DCS role is a politically restricted statutory chief officer post; they should be a first tier officer and report directly to the Chief Executive.
9. Section 19 of the Children Act 2004 requires every top tier local authority to designate one of its members as Lead Member for Children's Services. The LMCS will be a local Councillor with delegated responsibility from the Council, through the Leader, for children's services. The LMCS, as a member of the Council Executive, has political responsibility for the leadership, strategy and effectiveness of local authority children's services.
10. The DCS and LMCS (in their respective roles) will also need to work closely with the Director of Public Health as the principal adviser on health to officials and members.
11. Where additional functions are allocated to the DCS, local authorities are required to undertake a local test of assurance to ensure the arrangements in place are not negatively impacting on the effectiveness of the arrangements in regard of discharging its duties in relation to the education and social care of children and young people.
12. In line with the guidance a local test of assurance has been undertaken using the Council's risk assessment methodology. This has been conducted by the Corporate Policy Team in conjunction with the Risk Management Section in order to enhance its independence from the Service Grouping within which the posts sit. The outcome from that assurance test has indicated that the risk of negative impact on the effectiveness of the current arrangements is currently low in relation to both roles.
13. The assurance test was shared with the Chair of the Local Safeguarding Children Board who has indicated their support for the outcome, content and the open and transparent way in which the assurance has been undertaken.
14. The assurance test will be undertaken on a regular basis and/or in the event that the circumstances surrounding either of the two current post holders changes.

FINANCIAL AND LEGAL IMPLICATIONS

There are no direct financial implications to this report. The test of assurance conducted ensures that the authority has complied with the requirements of the statutory guidance.

RISK ASSESSMENT

This report is categorised as low to medium risk. Existing management systems, daily routine activities and identified review/trigger points are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

The report underpins the leadership and management arrangements in relation to the Children and Young People and Adults strands of the SCS.

EQUALITY IMPACT ASSESSMENT

As this is a test of assurance relating to compliance with statutory guidance an equality impact assessment is not required.

CONSULTATION, INCLUDING WARD COUNCILLORS

N/A

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