



## Report of the Chief Executive

Council – 3 December 2020

# Permanent Appointment to the Role of the Statutory Education Director

<b>Purpose:</b>	To update Council on arrangements around the Director of Education post
<b>Policy Framework:</b>	Council Constitution, Chief Officer Appointments Procedure, Section 4.9 Pay Policy
<b>Consultation:</b>	Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that Council;  1) Notes the approval of the Ill Health Retirement of Mr Nick Williams.  2) Notes the commencement of the process to recruit a Statutory Director of Education and; Agrees to extend the appointment of Helen Morgan-Rees as interim Statutory Director of Education until such time as the post has been filled on a permanent basis.
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<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Stephanie Williams
<b>Access to Services Officer:</b>	N/A

### 1. Ill Health Retirement

- 1.1 The post of “Chief Education Officer” is a designated Statutory post under s532 of the Education Act 1996. This imposes a duty on the Council to appoint an Officer as its Chief Education Officer. The Director of Education holds this statutory function.
- 1.2 Nick Williams the current Statutory Education Director, has been on long-term sickness leave with interim arrangements established to cover this statutory role.

- 1.3 The Council has now received medical confirmation that Mr Williams is “unlikely to be capable of undertaking gainful employment before normal pension age” and is therefore eligible for Ill Health Retirement.
- 1.4 In accordance with Council policies and procedures, this has been approved by the Chief Finance Officer. This is on the understanding that as a medically certificated ill health retirement it is not affected by the now legislated £95k public sector exit cap. There is current substantial uncertainty due to a conflict in various regulations around the LGPS scheme and HM Treasury Directions which are likely to take some time to resolve nationally.
- 1.5 In accordance with the Council’s Pay Policy regarding Payments on Termination;

*“5.6.2 Any other payments falling outside the provisions or the relevant periods of contractual notice shall be subject to a formal decision made by the Chief Executive and Leader of the Council or relevant Elected Members, Committee or Panel of Elected Members with delegated authority to approve such payments.”*

On ill-health retirement, there will be additional pension costs and pay in lieu of contractual notice but no other payments that fall outside these provisions.

## **2. Appointment to the Statutory Post of Director of Education**

- 2.1 Section 532 of the Education Act 1996 specifies that there is a duty on a Local Authority to appoint a fit person to be the Chief Education Officer of the authority. This duty in Swansea is held by the Director of Education. This is a Statutory post whose responsibilities are outlined in Article 12.2 and 12.11 of the Council’s Constitution. Article 12.3.1 specifies that Council will designate the post.
- 2.2 The Council’s Chief Officer Appointments Procedure requires that recruitment into this role on a permanent basis is carried out as detailed in Section 4.9 of the Council’s Constitution; JNC Officer Appointment Procedure Rules (Rules of Procedure).

## **3. Equality and Engagement Implications**

- 3.1 There are no equality or engagement implications associated with this report.

## **4. Financial Implications**

- 4.1 One off payments in relation to the Ill Health Retirement will be made in line with Council policy.
- 4.2 The permanent statutory post is already fully budgeted for.

4.3 There will be additional one off costs for the advertisement and recruitment and these will be accommodated from contingency fund when they fall due

## **5. Legal Implications**

5.1 Legal implications have been identified throughout this report.

5.2 The Chief Officer Appointments Procedure Rules are intended to comply with Regulation 3, Schedule 1 Part 1 and Regulation 5 (1) (b), Schedule 3, part 2 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 (“the Regulations”).

5.3 Ill health retirement falls outside the scope of the ‘Restriction of Public Sector Exit Payment Regulations 2020’ relating to “£95k exit cap payments”

**Background Papers:** None.

**Appendices:** None.