

Report for: Staffing and Remuneration Committee
14 December 2015

Item number: 8

Title: Workforce Plan – Senior Manager Employment Contract

Report authorised by: Nick Walkley, Chief Executive and Head of Paid Service

Lead Officer: Jacquie McGeachie, Assistant Director Human Resources and SSC, Ext 3172, jacquie.mcgeachie@haringey.gov.uk

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key

1. Describe the issue under consideration

- 1.1 Following a review of the Council’s Director and Assistant Director structure the Head of Paid Service committed to the Corporate Committee in September 2013 that a review of the ‘Heads of Service’ would be carried out. This review has now been completed and a new Head of Service structure is in place. This has been referred to as the Tier 3 Review as the review focussed on the tier of managers reporting into the Council’s Corporate Leadership Group (CLG).
- 1.2 In the Corporate Committee paper referred to above the Head of Paid Service committed to reviewing the employment contract and terms & conditions of the senior managers. The existing employment contract has not been reviewed for many years. The employment contract sets the tone and standards by which both parties agree to adhere to as part of their relationship.
- 1.3 The Tier 3 Review has been taking place concurrently with the Senior Manager Pay and Grading Review with an aim to reward our senior managers fairly, transparently and consistently. As the Pay and Grading Review has amended a number of terms for the senior management population it is considered that it is now appropriate to issue senior managers with a revised contract to take effect from 1 April 2016. For the purposes of this report a “senior manager” is defined as a Council employee on grade SM1 or above who is not on NHS or Soulbury terms and conditions.
- 1.4 Two versions of the contract would be issued, one for the Chief Executive and one for all other senior managers. The Chief Executive contract will have some minor changes to reflect the different line management arrangements that apply to the Head of Paid Service.

2. Cabinet Member Introduction

Not applicable for this item.

3. Recommendations

3.1 That the Committee:

- (a) agrees the new Senior Manager Employment Contract, attached at Appendix A, is to be issued for comment to all senior managers.
- (b) notes that there will be a slightly varied version for the Chief Executive to reflect the fact that there are different line management arrangements, which will be issued by the Leader of the Council to the Chief Executive for comment.
- (c) notes that the final version of the Senior Manager Employment Contract be brought back to the Committee on the 26 January 2016 for approval, to be issued to all senior managers apart from the Chief Executive to take effect from 1st April 2016.
- (d) notes that the final version of the employment contract for the Chief Executive to be brought back to the Committee on the 26 January 2016 for approval, to be issued to the Chief Executive to take effect from 1 April 2016.

4. Detailed Proposals

4.1 Senior Manager Contract

- 4.1.1 The proposed contracts are based on emerging best practice to reflect the relationship the organisation will require to have with its senior managers in the immediate future and for the next five years. Attached at Appendix A is the draft contract that is being proposed for all senior managers, including the Senior Leadership Team (SLT), Directors / Assistant Directors and Heads of Service, but with the exception of the Chief Executive.
- 4.1.2 The Chief Executive's contract will be slightly varied to reflect the fact that he has different line management arrangements. This will be issued to the Chief Executive for comment by the Leader of the Council.
- 4.1.3 The aim has been to modernise the contracts and to ensure a consistent approach across the population. Key changes are outlined in Paragraph 6.5 below.

4.2 Managers in scope for the new contracts

- 4.2.1 All senior managers in Haringey will have an individual discussion regarding their terms and conditions throughout January to March 2016. The new contracts will come into force on the 1 April 2016.
- 4.2.2 Based on advice from the Council's legal team the contract at Appendix A will be shared with the affected population for comment and to seek their views. This will be before individual discussions are held to confirm to individuals how it specifically impacts on them. For clarity Level A managers are the Senior Leadership Team, Level B managers are Directors / Assistant Directors and Level C the Heads of Service / Senior Professionals.
- 4.2.3 Those managers currently on NHS or Soulbury terms and conditions will not be issued with the new contract at this time.
- 4.2.4 The contract at Appendix A will be issued to approximately 100 employees.
- 4.2.5 Phase 2 of the Modern Reward Strategy is underway and a revision of the existing contract for the rest of the workforce is being considered.

4.3 Trade Unions

The Trade Unions have been briefed on the Tier 3 Review, including the ongoing review of Senior Manager Pay and Grading. The Senior Manager Employment Contract at Appendix A has been shared with the Trade Unions at the Corporate HR/TU Meeting. They did not have any comment to make with regard to the contract, other than they were surprised at how lengthy it was. The contract has to be of sufficient length to include all the elements that are considered necessary, based on legal advice.

5. Alternative options considered

- 5.1 There is no legal requirement to re-issue new contracts to the senior management population. An alternative would be to simply vary the existing contracts with the consent of the relevant individuals to confirm the new terms. However where an individual employee does not consent, then unless the Council had the right to vary their contract without their agreement, the variation would not be legally valid. This would mean that the Council would continue to have senior managers on different contracts with no consistency across this population. It would also mean that the Council may be at risk as existing contracts do not reflect modern working practices, for example joint ventures, tendering exercises and intellectual property.

6. Background information

- 6.1 As detailed above in Section 1 the structural review was prompted by the Head of Paid Service's review of the Director and Assistant Director structure in 2013. That review was introduced after extensive consultation and agreement provided at the time that the next tier down in the organisation would be reviewed to support CLG in achieving their stretching targets.

- 6.2 The Senior Manager Pay and Grading Review has run alongside the review of the Tier 3 roles.
- 6.3 The existing senior management population do not all have the same contracts. This is due to some having first started with the Council many years ago and having received a number of variations to their contracts over the years.
- 6.4 The existing contract has not been recently reviewed. The contract at Appendix A was drafted by an external Employment Lawyer and verified by Haringey's in house Employment Lawyer. The contract was commissioned to include emerging best practice to reflect the relationship the organisation will require to have with its senior managers in the immediate future and for the next five years.
- 6.5 A summary of key new additions to the contracts include:
- Committing to abiding by the Council's Values (section 3.1) and working to the new generic role profile (section 3.2)
 - Confirmation that when the employment contract ends with the Council the employee accepts that this also ends any other post or office held outside the Council with any other body or organisation with which the Council is a partner or in which the Council has any interest or with which the Council has any involvement (section 3.7).
 - Section 15 confirms the Council's rights relating to intellectual property
 - Section 16 confirms the restrictions post termination around involvement with any tenders or contracts. This prevents an employee from having insider information that could be used to their advantage commercially.
 - The terms around Gardening Leave are clarified in section 18.
 - On termination all senior managers are required to give the Council no less than 3 months' notice in writing, unless they have a fixed term appointment of up to 18 months, in which case the senior manager is only required to give the Council at least 1 month's notice in writing. (Section 20).

7. Contribution to strategic outcomes

Creating a stronger tier of senior managers in the Council who report into Directors and Assistant Directors is key to achieving the Council's Corporate Plan. The employment contracts support the commercial nature the Council has with its senior managers and provide a robust challenge in a number of areas that the existing employment contract is silent on.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 Assistant Director of Corporate Governance

The Council's Employment Lawyer has been involved in the drafting of the contract at Appendix A. As stated, the contract reflects modern working practices and is fit for purpose.

8.2 Chief Finance Officer

The implementation of this proposed contract permits the claiming of travel and subsistence costs which were previously assumed to be covered under the 'consolidated payment' element of the senior officers contract.

There will therefore be some additional costs in this regard which will have to be accommodated from within individual service areas budgets. As these have not previously been claimed there is no basis to estimate what this cost might be, but it is not believed to be significant. The extent of what constitutes reasonable travel and subsistence costs will be set out in appropriate guidance.

9. Equality

An employee Equalities Analysis has been undertaken and will be repeated in April 2016 when it is anticipated that the majority of senior manager posts will be filled.

The main finding was that although there is evidence that some equality strands, for example men, and those employees aged between 45 – 54 are more affected by the proposals when compared to their comparators, this is due to the profile of those affected by the change. There is no evidence to suggest that any equality groups will be disadvantaged by the proposal as all employees are being treated equally. The contract will be offered to all senior managers. The contract may be considered less favourable than those of the rest of the workforce as there is no right to any salary increase over time, however this has been agreed and consulted upon as part of the Senior Manager Pay and Grading Review.

10. Use of Appendices

Appendix A – Senior Manager Contract

11. Local Government (Access to Information) Act 1985

No relevant documents required here.

DRAFT – Subject to consultation

Contract of employment:

Dated 1 April 2016

The Parties

(1) The London Borough of Haringey (the **Council**)
River Park House, 225 High Road, London N22 8HQ

(2) Name and address (the **Executive**)

XXXX

1 Interpretation

1.1 The headings and marginal headings to the clauses are for convenience only and have no legal effect.

1.2 Any reference in this Agreement to any Act or delegated legislation includes any statutory modification or re-enactment of it or provision referred to.

1.3 In this Agreement:

“**Chief Executive**” means the Chief Executive of the Council.

“**Employment IPRs**” means Intellectual Property Rights created wholly or partially by the Executive in the course of his/her employment with the Council (whether or not during working hours or using Council premises or resources and whether or not recorded in material form) and relating to or capable of being used in the Council's business.

“**ERA 1996**” means the Employment Rights Act 1996 as amended from time to time.

“**Holiday Year**” means 1st April to 31st March.

“**Intellectual Property Rights**” means patents, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

“**Partner**” means a service provider with whom the Council has entered into a commercial relationship for the purposes of commissioning the delivery of services

and which may include any subsidiary of the Council or company or other corporate entity over which the Council has control.

2 **Appointment, duration and continuous employment**

2.1 The Council appoints the Executive and the Executive agrees to act as *(insert job title)* with effect from 1 April 2016. This appointment shall continue subject to Clause 20 below.

2.2 *(optional) This is a fixed term appointment for up to 6 months with the option on the part of the Council to extend for a further 3 months.*

2.3 The Executive's continuous employment commenced on [a date to be confirmed]. This contract supersedes and replaces in their entirety any other contractual arrangements between the Council and the Executive. The Executive's previous employment with any other employing body will not count as continuous employment with the Council.

3 **Duties**

3.1 The Executive agrees to work and will encourage others to work in accordance with the current written values "Our Values" of the Council, attached as Appendix 1. These may change from time to time or develop as circumstances require and the Executive will be notified of any changes when they are made. The Executive acknowledges and accepts that he/she will abide by the spirit and intentions of these values, set out under the headings "Human – we care"; "Ambitious – we push the boundaries"; "Accountable – We take responsibility"; "Professional – we are Haringey's Ambassadors". These values and working in accordance with them form part of the Executive's contractual Terms and conditions of Employment.

3.2 Examples of some of the major duties that the Executive is expected to carry out are set out in Appendix 2 hereto. However the Executive is required to carry out any other duties or any other role in any department or location as are or is considered by the Council reasonable and that fall within the Executive's competencies. The Executive agrees to perform these duties in furtherance of the obligations of the Council.

3.3 The Executive agrees to undertake his/her duties without any additional remuneration other than the remuneration provided for in this Agreement.

3.4 The Executive shall:

3.4.1 devote the whole of his/her time attention and skill to the proper discharge of his/her duties (save for any other duties that have been agreed in advance and in writing with the Chief Executive whose consent will not be unreasonably withheld);

3.4.2 act at all times in accordance with the Council's Code of Conduct and any code, policy, procedure, regulation or requirement pertaining to the governance of the Council as amended from time to time;

- 3.4.3 declare any conflict of interest which may arise and agrees that he/she has at the date of this contract declared all such interests and will continue to do so when any potential conflict arises;
 - 3.4.4 faithfully and diligently perform those duties and exercise such powers consistent with them which are from time to time reasonably and lawfully assigned to or vested in him/her;
 - 3.4.5 travel as may be required for the better performance of his/her duties;
 - 3.4.6 comply with all the Council's rules, regulations, procedures and policies from time to time in force;
 - 3.4.7 follow all reasonable instructions from and on behalf of the Chief Executive;
 - 3.4.8 act in accordance with all decisions of the Council;
 - 3.4.9 use his/her best endeavours to promote the interests of the Council and at no time do anything that may bring the Council into disrepute or harm the Council in any way including in all dealings which the Executive may have in or relating to the selection of providers of services to the Council;
 - 3.4.10 comply with all statutory and constitutional obligations of the Council and imposed upon him/her as a result of this agreement.
- 3.5 The Executive shall not without the written consent of the Chief Executive either:
- 3.5.1 incur on behalf of the Council any capital expenditure in excess of such limits that may be delegated to the Executive from time to time,
 - 3.5.2 enter into on behalf of the Council any commitment, agreement or arrangement which is outside the Council's normal course of business, or outside the Executive's normal duties or contains unusual or onerous terms.
- 3.6 The Executive acknowledges that at all times during his/her employment, including during any period of suspension in accordance with clause 19 or while on garden leave in accordance with clause 18, he/she will be subject to his/her duty to render faithful service to the Council and to his/her duty, unless there is reasonable and proper cause, not to conduct himself/herself in a manner calculated or likely to destroy or seriously damage the relationship of confidence and trust between the parties. The Council may at any time appoint any person or persons to act jointly with the Executive to discharge his/her duties and functions (if any) under this Agreement.
- 3.7 If the Executive accepts any other post or office outside the Council with any other body or organisation with which the Council is a partner or in which the Council has any interest or with which the Council has any involvement, the Executive will resign immediately from that post or office when his/her employment with the Council ends

(however his/her employment terminates i.e. by way of resignation or dismissal or mutual agreement or frustration of contract).

4 **Reporting**

The Executive shall at all times keep the Chief Executive promptly and fully informed (in writing if so requested) of the conduct of the business or affairs of the Council or of any Partner and provide such information, explanations and assistance that the Chief Executive may require in connection with the Council's business or, where relevant, that of the Partner.

5 **Normal hours**

The Executive shall work such hours as may be required for the proper performance of his/her duties (including work in the evenings and at weekends and attending out of hours meetings if necessary) and without any additional remuneration. The Executive agrees that his/her employment under this Agreement falls within Regulation 20 of the Working Time Regulations 1998 i.e. the 48 hours working week restriction does not apply to his/her employment.

6 **Place of work**

6.1 The Executive's normal place of work is X and/or such other place of business of the Council and/or at such other addresses as the Council may require on either a temporary or indefinite basis, including, for the avoidance of doubt, the place of business of any of the Council's Partners. The Executive will be given reasonable notice of any temporary or permanent change in his/her place of work.

6.2 In performing his/her duties under this Agreement, the Executive may be required to travel inside and outside the United Kingdom. The Executive agrees to do so and agrees to abide by the Council's expenses policy in claiming travel and subsistence and entertainment expenses, which may change from time to time (see Clause 8 below).

7 **Salary**

7.1 The Council will pay the Executive a gross annual salary of £X which will accrue day to day (i.e. one day's pay will be calculated at 1/365th of annual salary) and be payable on the 15th day of each calendar month.

7.2 The Executive's salary will be reviewed annually on 1 April. There is no contractual right to any salary increase and no contractual obligation on the Council to increase the Executive's salary.

7.3 The Council will be entitled at any time during the term of this Agreement to deduct from the Executive's salary any monies due from the Executive to the Council including but not limited to any outstanding loans, advances and holiday taken in excess of the Executive's contractual entitlement and any overpayments made by mistake or otherwise.

8 **Expenses**

The Executive will be reimbursed by the Council for all reasonable travel, hotel subsistence and other expenses reasonably incurred by him/her in the proper performance of his/her duties, subject to him/her complying with such guidelines or regulations issued by the Council from time to time in this respect and to the production to the Council of such receipts or other evidence of actual payment of the expenses as the Council may require.

9 **Pension**

The Executive is eligible for membership of the Local Government Pension Scheme subject to the rules of such pension scheme from time to time in force.

10 **Holiday**

10.1 The Executive is entitled to annual leave in each Holiday Year, in addition to all public and bank and statutory holidays, to be taken at such times or time as may be approved by the Council. Annual leave entitlements stated as number of working days by reference to the Executive's Level and length of continuous employment by the start of the Holiday Year are shown in the table below.

<i>Level</i>	1- 4 yrs service completed	5 yrs service completed	6 yrs service completed	8 yrs service completed	10 yrs service completed
<i>Level B and C</i>	30	30	31	32	33
<i>Level A</i>	36	36	37	38	39

10.2 The Executive will accrue holiday on a pro rata basis throughout each Holiday Year.

10.3 The Executive may with the consent of their line manager carry forward up to 5 days of the unused part of their holiday entitlement to a subsequent year. Any such holiday entitlement which is carried forward must be taken within the next Holiday Year.

10.4 Subject to clause 10.5 below upon termination for whatever reason as appropriate the Council may make to the Executive a payment in lieu of outstanding holiday entitlement or the Executive will be required to repay the Council any payment received for holiday taken in excess of the Executive's actual entitlement, in which case the Executive authorises the Council to make deductions in respect of the same from the Executive's final salary payment.

10.5 The Council reserves the right to require the Executive to take any outstanding holiday entitlement during any notice period or period of suspension or gardening leave.

10.6 Any taking by the Executive of annual leave shall be treated as the taking of his/her statutory entitlement to leave under the Working Time Regulations 1998 and as the taking of his/her contractual entitlement to annual leave if and only if he/she has fully taken his/her statutory entitlement.

11 **Sickness**

11.1 The Executive may be paid normal salary, occupational sick pay (OSP), inclusive of Statutory Sick Pay (SSP) subject always to the following conditions and when sickness absence is occasioned by the Executive's personal sickness or injury and not by the ill health of a member of their family or bereavement.

11.2 OSP may be paid up the following maximum amounts (inclusive of any SSP). These benefits may be extended at the sole discretion of the Chief Executive.

- First year of service: one month's full pay and, after four months' service, two months' half pay.
- Second year of service: two months' full pay and two months' half pay.
- Third year of service: four months' full pay and four months' half pay.
- Fourth and fifth year of service: five months' full pay and five months' half pay.
- After five years' service: six months' full pay and six months' half pay.

11.3 In order to be in receipt of any OSP the Executive must at all times abide by all of the requirements of the Council's rules, policies and procedures in place from time to time including providing satisfactory medical evidence of personal sickness, injury and incapability – rendering the Executive incapable of working or undertaking any duties that the Council considers it would be reasonable to expect the Executive to do. For the avoidance of doubt, the Employee agrees the payment of any OSP is limited to those sums referred to in clause 11.2 above.

11.4 Any salary paid by the Council in respect of any period of personal incapacity for work i.e. illness or injury resulting from the negligence of a third party, shall be a loan only recoverable by the Council out of any damages awarded and paid, or out of any settlement or compensation paid to the Executive by way of loss of earnings.

11.5 In the event of the Executive being unable to undertake his/her duties and responsibilities because of their personal sickness, injury or incapacity, he/she may at any time be required to undergo a medical examination by a suitably qualified

medical practitioner nominated by the Council, for which it will bear all necessary costs. The Executive agrees to give his/her informed consent for any and all relevant medical records from their GP and/or specialist to be disclosed to the physician of the Council's choice and agrees that any resulting medical report may be disclosed to the Chief Executive or a designated deputy. Any such Report will be restricted to a diagnosis and prognosis, advice as to any reasonable adjustments that may be made and advice on such other matters as the Council considers reasonable to be sought from the physician.

- 11.6 In the event that the Executive's GP and/or specialist takes a different view concerning whether the Executive is fit for work during a given period, the Council will be entitled to prefer the view of the physician of its choice.

12 **Politically Restricted Post**

The Executive's post is automatically designated by the Council as politically restricted under the Local Government and Housing Act 1989 and Local Government Officers (Political Restrictions) Regulations 1990. Accordingly the Executive is restricted from participating in the following activities:-

- a. Candidate for public elected office other than a Town, Parish or Community Council
- b. Holding office in a political party
- c. Canvassing at elections
- d. Speaking to the public at large or publishing any written work that could give the impression that they are advocating support for a political party

In view of the statutory nature of these restrictions, the Executive agrees that any breach of the restrictions may amount to an act of gross misconduct leading to the termination of his/her contract of employment. If the Executive believes that the post is exempt from political restriction, as explained above, he/she can appeal to his/her line manager for this to be reviewed.

13 **Other Interests**

- a. The Executive shall devote all of his/her time to the Council and shall not (unless otherwise agreed in writing by the Council) undertake any other business or profession or be or become an employee or agent of any other body or other person or assist or have any financial interest in any other business or profession.
- b. The Executive confirms that he/she has fully disclosed to the Council in writing all circumstances in respect of which there is, or there might be, a conflict of

interest between the Council and the Executive or the Executive's close associates, and he/she agrees to fully disclose to the Chief Executive any such circumstances which may arise during this Agreement.

14 Confidential Information

- a. The Executive acknowledges that in the course of his/her employment, he/she will obtain, have access to and use information belonging to the Council or any Partner that is confidential and will relate to the Council's (or if applicable) to a Partner's present and future commercial interests and continued operation. The Executive agrees and acknowledges that all such information and knowledge, whether or not in writing, concerning the Council and or its tenants, service users, clients or business and or any Partner is the exclusive property of the Council or (if applicable) of that Partner. For the purposes of this agreement, such information is Confidential Information.
- b. Either during or after the Executive's employment the Executive will not disclose any Confidential Information to any third party or use the same for any purpose other than carrying out the terms of his/her employment unless and until such confidential information is or has become public knowledge (unless this occurs through a breach of this Agreement or any other unlawful act of the Executive), provided that he/she will not be precluded from disclosing Confidential Information to the extent he/she is required to do so by law or court order, provided that he/she shall use all reasonable endeavours to give the Council prior notice of any such disclosure and shall limit such disclosure to that which is legally required.
- c. The restrictions contained in this clause do not apply to:
 - i. any disclosure authorised by the Council or required in the ordinary and proper course of the Executive's employment, or
 - ii. any information, or Confidential Information that the Executive can demonstrate was known to him/her prior to the commencement of his employment by the Council, or
 - iii. a protected disclosure by the Executive, in accordance with the provisions of the Employment Rights Act 1996.
- d. The Executive shall maintain all necessary and proper security precautions when in the possession of Confidential Information and shall not remove from the Council's premises, or allow others to remove from the Council's premises, any records of Confidential Information, save only to the extent that it is strictly necessary for the proper performance of the Executive's or the relevant person's duties to the Council. The Executive must comply with the Council's standards, rules and procedures relating to confidentiality of information in electronic form.
- e. The Executive must, at the request of the Council at any time, promptly delete all Confidential Information from any computer disks, tapes or other reusable material in his/her possession or under his/her control and destroy all other

documents and tangible items in his/her possession or under his/her control which contain or refer to any Confidential Information.

15 Intellectual property

- a. The Executive acknowledges that he/she owes to the Council a special obligation to further the interests of the Council including in, but not limited to, its dealings with its Partners.
- b. The Executive acknowledges that all Employment IPRs and materials embodying them shall automatically belong to the Council to the fullest extent permitted by law. To the extent that they do not vest in the Council automatically, the Executive holds them on trust for the Council and undertakes to execute all documents and do all acts both during and after his/her employment by the Council as may, in its opinion, be necessary to vest the Employment IPRs in the Council.
- c. The Executive agrees and undertakes to the Council:
 - i. to give the Council full written details of all works embodying Employment IPRs made wholly or partially by the Executive at any time during the course of his/her employment promptly on their creation;
 - ii. at the request of the Council, and in any event upon termination of his employment, to give to the Council all documents and materials in any form whatever (and all copies or abstracts of them) which record or relate to any of the Employment IPRs and their creation, or which may be requisite to enable the Council to exploit the Employment IPRs to its or their best advantage, which are in his/her possession, custody or power;
 - iii. to keep confidential any Employment IPR unless the Council has consented in writing to its disclosure by the Executive; and
 - iv. not to register or attempt to register any Employment IPR unless requested to do so in writing by the Council.
- d. The Executive hereby irrevocably waives all of his/her present and future moral rights as may arise under the Copyright Designs and Patents Act 1988 and all similar rights in other jurisdictions relating to any copyright which forms part of the Employment IPRs, and he/her agrees not to support, maintain or permit any claim for infringement of moral rights in such copyright works.
- e. The Executive agrees and undertakes to the Council:
 - i. to execute all documents and do all acts both during and after his/her employment as may, in the opinion of the Council be necessary ,to register the Employment IPRs in the name of the Council and to protect and maintain the Employment IPRs; and

- ii. to give all necessary assistance to the Council to enable it to enforce its Intellectual Property Rights against third parties, to defend claims for infringement of third party Intellectual Property Rights and to apply for registration of Intellectual Property Rights, where appropriate throughout the world, and for the full term of those rights.
- f. All rights and obligations under this clause shall continue in force after termination of this Agreement in respect of Employment IPRs.

16. Preparation of Tenders and Contracts – Restrictions post termination

The following conditions apply to any post whose duties include the preparation of tenders or contracts and associated work which gives access to confidential information. For a period of six month following from the end of the Executive's employment (howsoever the employment ended), for any reason, the Executive shall not, without the written consent of the Council:

- a) On his/her own account, in competition with the Council:-
 - (i) tender for any Council contract for work of the type or class which he/she has been involved with (directly or indirectly) in the course of his/her employment by the Council during the twelve months preceding the date of termination
 - (ii) seek from a School Governing Body maintained by the Council ,or from a body or organisation in which the Council has an interest, work of the type or class which he/she has been involved with (directly or indirectly) in the course of his/her employment by the Council during the twelve months preceding the date of termination.
- b) Take any employment with, be a partner of, or provide advisory, consultancy or similar services (whether directly or indirectly) to any person, firm or company which has tendered for or is likely to tender for a contract for such work, or which has sought or is likely to seek such work, nor be a member or director of any such company.
- c) Disclose to any person or make use of any information in the Executive's possession related to the Council's business, tendering regulations, processes and procedures. Further the Executive shall not disclose to any person without the written consent of the Council any information relating to any contracts for such work.

The above restrictions are considered to be reasonable and legitimate in order to protect the Council from unfair competition. In the event that any (or all) of the restrictions are considered to be unjustifiably restrictive but would be valid/effective if some part were deleted, modifications may only be made following authorisation and agreement by the Chief Executive and the Council's legal service.

17 Return of Council property

The Executive shall promptly whenever requested by the Council and in any event immediately before or upon the termination of his/her employment deliver to the Council all property of the Council or any Partner, including but not limited to keys, mobile phone, computer equipment, all lists of clients or customers, correspondence and all other documents, papers and records (including, without limitation, any records stored by electronic means, together with any codes or implements necessary to give full access to such records), system designs, software designs, software programmes (in whatever media), presentations, proposals or specifications which may have been prepared by him/her or have come into his/her possession, custody or control in the course of his/her employment, and the Executive shall not be entitled to and shall not retain any copies hereof. Title and copyright therein shall vest in the Council.

18 Gardening leave

- a. If either party serves notice on the other, to terminate the Executive's employment under clause 20, the Council may require the Executive to go on gardening leave during all or any part of the period of notice.
- a. The Executive must not during any period of gardening leave, without the written consent of the Council go to any premises of the Council or any Partner, or contact or deal with any director, employee, customer, client or supplier of the Council or any Partner.
- b. The Executive acknowledges that the demands made by the Council in terms of this clause 18 shall not constitute a breach of contract of any kind whatsoever nor shall he/she have any claim against the Council as a consequence of being required to comply with this clause 18.
- c. The Executive shall, during any period of gardening leave, remain available to perform any duty requested by the Council which it considers reasonable and shall co-operate generally with the Council to ensure a smooth hand over of his/her duties. Should the Executive fail to make himself/herself available for work having been requested by the Council to attend, he/she shall, notwithstanding any other provision of this Agreement, forfeit his/her right to salary and contractual benefits in respect of such period of non-availability.
- d. The Council may appoint another individual to carry out the duties of the Executive during any period that he/she is on gardening leave in accordance with this clause 18.
- e. The Council will, during any period of gardening leave, continue to provide the basic salary and benefits due to the Executive.

19 Suspension

In order to investigate any potential dishonesty, gross misconduct, breach of any rules or policies or procedures or in any case of alleged gross dereliction of duty/gross negligence or any other circumstances which may give a right to the Council to terminate under clause 20, the Council is entitled to suspend the

Executive on full pay for as long as may be deemed reasonably appropriate by the Council to carry out a proper investigation.

20 Termination

- a. Either party may terminate the employment of the Executive by providing the other party with not less than 3 months' notice in writing. However where there is a fixed term appointment of up to 18 months either party may give the other 1 month's notice in writing to terminate this employment.
- b. The Council may at its discretion make a payment in lieu of notice, which will be made net of deductions for Income Tax, National Insurance contributions and for other matters for which deductions would normally be made, regardless of whether or by whom notice under clause 20.a has been given and in respect of the whole or the balance of the notice period which would otherwise be required under this clause. At the discretion of the Council, any such payment may be paid in monthly instalments following the termination of the employment and the Executive's entitlement to such payment shall be reduced to the extent that the Executive receives payment for work or services performed on his/her own account or for any other party during that time.
- c. For the avoidance of doubt the right of the Council to make a payment in lieu of notice does not give rise to any right on the part of the Executive to receive such a payment.
- d. The Council may terminate the employment of the Executive without notice or payment in lieu of notice:
 - i. if, in the opinion of the Council, the Executive is guilty of gross misconduct or has committed any serious or persistent breach of any of his/her obligations to the Council (whether under this Agreement or otherwise),
 - ii. if the Executive fails in the opinion of the Council to perform his/her duties competently,
 - iii. if the Executive is guilty of any conduct which in the opinion of the Council, brings the Council into serious disrepute.
- e. Any delay or forbearance by the Council in exercising any right of termination shall not constitute a waiver of it.
- f. The Council may terminate the employment of the Executive even if OSP would still be paid to the Executive if he/she had continued to be employed by the Council.

21 Termination payments

If the Executive's employment is terminated by reason of redundancy he may receive a redundancy payment under the Council's Restructure Policy, if applicable.

22 Data processing/Data Protection

- a. The Executive agrees that by signing this Agreement, he/she has given consent to the Council processing both electronically and manually the data it collects which relates to the Executive for the purposes of the administration and management of its employees and its business and for compliance with applicable procedures, laws and regulations. The Executive also consents to the transfer of such personal information to other offices the Council may have or to a Partner or to other third parties whether or not outside the European Economic Area for administration purposes and other purposes in connection with the Executive's employment where it is necessary or desirable for the Council to do so.
- b. In the event that the Council needs to process any "sensitive personal data" (as defined by the Data Protection Act 1998) in relation to him/her for its legitimate business needs, he/she agrees to sign on request such express consent as may be required to enable it to do so.
- c. The Executive agrees that by signing this Agreement he/she has given his/her express consent to the Council retaining all records for him/her in respect of any period of absence, including sickness absence.

23 Interception of telecommunications

Telephone calls made and received by the Executive using the Council's equipment and use of the Council's email system to send or receive personal correspondence may be recorded by the Council on its communications systems. Any recordings made shall at all times remain the property of the Council and, if necessary, will be used as evidence in the case of disputes with employees or clients.

24 Notices

- a. Any notice or other communication required or permitted to be given or made under this Agreement shall be in writing and may be delivered to the relevant party personally or sent by prepaid letter to the postal address of that party specified in this Agreement or sent by e-mail to the e-mail address of that party specified in this Agreement. Service at the last notified address shall be effective for the purposes of this Agreement notwithstanding the fact that either party may subsequently have changed its address without having notified the other party under the provisions of this Clause.
- b. Unless the contrary shall be proved each such notice or communication shall be deemed to have been received, if by letter, 24 hours after posting, if by personal delivery, when delivered and if by e-mail, on the day it was sent.

25 Effect of Termination

The expiration or determination of this Agreement shall not operate to affect such of its provisions as are expressed to operate or have effect after such expiration or determination and shall be without prejudice to any other rights or remedies of the parties.

26 Collective agreements

There are no collective agreements relating to terms and conditions of the Executive's employment with the Council.

27 Grievance and disciplinary procedure

- a. As a condition of employment the Executive is subject to and is required to conform to all and/or any rules and regulations applicable to employees of the Council that may from time to time be in force and to become thoroughly acquainted with those rules and regulations relevant to his/her work.
- b. The Executive is subject to the Council's disciplinary and grievance procedures, copies of which are available from the Council's Intranet.
- c. If the Executive wants to raise a grievance, he / she may apply in writing to their line manager in accordance with the Council's grievance procedure.
- d. If the Executive wishes to appeal against a disciplinary decision they may apply in writing to the Head of HR in accordance with the Council's disciplinary procedure.
- e. The disciplinary, grievance and other Council policies and procedures relating to the Executive's employment are not contractual and as such there is no contractual obligation to follow any such policy or procedure or any contractual entitlement that such policies or procedures be applied to the Executive.

28 Arbitration or Mediation

In the event of any dispute over the terms of this Agreement or in connection with any grievance or dispute during the Executive's employment or in relation to its termination, howsoever it is caused, the Council and the Executive (the parties) agree to submit the dispute to Arbitration or Mediation. The parties agree to choose an Arbitrator or Mediator from one of three such persons, proposed by the Council. The costs of such arbitrator/mediator will be borne by the Council.

29 Other agreements

- a. The Executive warrants and undertakes that they are not nor will not be in breach of any former employment contract by accepting employment with the Council. He/she further warrants and undertakes that he/she has shown a copy of their former employment contract to the Head of Human Resources (or his/her designated deputy) which confirms that the Executive would not be in breach of any confidentiality obligations, post termination restrictions or conflict of interest clauses.
- b. The Executive acknowledges and warrants that there are no agreements or arrangements whether written, oral or implied between the Council and the Executive relating to the employment of the Executive other than those

expressly set out below and that he/she is not entering into this Agreement in reliance on any representation not expressly set out herein.

30 Entire Agreement

This agreement and any document referred to in it constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- a. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- b. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- c. Nothing in this clause shall limit or exclude any liability for fraud

31 Variation

The terms and conditions of this Agreement will normally only be varied with the consent of both parties. However, the Council reserves the right to vary any of these terms and conditions after such period of consultation with the Executive as it considers reasonable.

32 Governing Law

This Agreement shall be governed by and interpreted in accordance with the laws of England and each of the parties submits to the jurisdiction of the English courts as regards any claim or matter arising under this Agreement. Any delay by the Council in exercising any of its rights under this Agreement will not constitute a waiver of such rights.

Signed by

Signed by

For and on behalf of **London Borough of Haringey**

BUILDING A STRONGER HARINGEY TOGETHER OUR VALUES



Job Description - Generic Role Profile

This is a generic Job Description. The Executive accepts that these duties will change from time to time, that duties may be removed by the Council at its discretion, that other duties may be added or substituted by the Council at its discretion and that he/she may be required to undertake any other duties within the Council or any Shared Service as they may be directed from time to time.