

<b>Consideration</b>	
<b>Public</b>	<b>Public</b>
<b>Report to:</b>	<b>Nottinghamshire Police and Crime Panel</b>
<b>Date of Meeting:</b>	<b>24 January 2022</b>
<b>Report of:</b>	<b>Caroline Henry</b>
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<b>Agenda Item:</b>	<b>3 – Appendix 1</b>

## **Formal Notification of Temporary arrangements for an Interim Chief Finance Officer in compliance with Schedule 1 6 (1)(b) and 7 (1)(a) Police Reform and Social Responsibility Act 2011**

### **1. Purpose of the Report**

1.1 I am required by Schedule 1 6 (1) (b) Police Reform & Social Responsibility Act 2011 (PRSRA 2011) to appoint a person to be responsible for the proper administration of my financial affairs (referred to as chief finance officer).

1.2 Schedule 1 7 (1) PRSRA 2011 requires me to appoint a person to act as Chief Finance Officer (CFO) if and for so long as the post is vacant or the holder of the post is unable to carry out the duties of the role. I am further required, in accordance with Schedule 1 9 (1) and (2) PRSRA 2011 to notify members of the Nottinghamshire Police and Crime Panel of a proposed senior appointment, as follows:

- the name of the person I am appointing;
- the criteria that were used to assess the suitability of the candidate;
- why the candidate satisfies those criteria; and,
- the terms and conditions upon which the candidate is to be appointed.

### **2. Recommendations**

2.1 For the reasons set out in this report, and in accordance with Schedule 1 9 (1) PRSRA 2011, I invite the panel to:

- a) Review the proposed temporary appointment of Mark Kimberley as Chief Finance Officer (CFO) for my Office. I wish to draw early attention to the fact that an effect of this temporary appointment would be that Mr Kimberley would thereby fulfil a Joint Chief Finance Officer to both myself as Police and Crime Commissioner (PCC) and to Chief Constable (CC) Craig Guildford of Nottinghamshire Police;
- b) Hold a confirmation hearing to inform a report on the proposed appointment; and,
- c) Review and make a recommendation to me as to whether Mark Kimberley should be appointed in accordance with Schedule 1 10 (4) of the Act.

### **3. Reasons for Recommendations**

- 3.1 My substantive CFO, Mrs Charlotte Radford, intends to leave her post on 31st January 2022. Mrs Radford is entitled to take her annual leave entitlement prior to finishing in her employment with us, and she has requested to do this after 22nd December 2021. I wish to extend my formal thanks to Mrs Charlotte Radford for her years of service to the OPCC.
- 3.2 I am obliged by paragraph 7 to PRSRA 2011 to appoint a person to act as CFO to my Office where the role is vacant or where the post holder is unavailable to carry out their duties. While paragraph 9 PRSRA 2011, requires that confirmation arrangements for a statutory post holder in my Office be notified to the Panel, the requirement to ensure continuity in provision of statutory officer is mandatory, and therefore I cannot have a gap in CFO provision.
- 3.3 I am further obliged by Section 151 Local Government Act 1972 to appoint a chief finance officer who is responsible for the administration of the financial affair of my Office. Paragraph 7 PRSRA 2011 prohibits me from appointing a person to act as CFO unless they are qualified to be appointed, as specified in S113 Local Government Finance Act 1988.
- 3.4 It is my intention to conduct a formal process for the appointment of a substantive permanent CFO. I previously commissioned an independent consultant to assist me with the roles and responsibilities review of my Office, and the recruitment for a substantive Chief Executive, following the departure of Mr Kevin Dennis. The consultant has provided support in reviewing the job description and person specification for the CFO role prior to it being formally job evaluated and they have additionally engaged a public sector recruitment team to facilitate the recruitment and interviews for the role.
- 3.5 The role for the vacant CFO post will be advertised in the coming weeks, and in expectation of a successful appointment, we anticipate that the confirmation of the permanent CFO for my Office will take place at the Police and Crime Panel meeting on 28 March 2022.
- 3.6 In the interim, to ensure my Office can discharge my statutory duties and use my powers to best effect in Nottinghamshire, and to maintain an effective and efficient police force for the Nottinghamshire area in accordance with Policing Protocol Order, SI 2011/ 2744 17(g), I made an approach to CC Craig Guildford for assistance. Such requests for support from police forces are enabled under the following specific provisions of the PPO 2011, which sets out how the functions of PCCs and CCs are operated in relation to each other:

Para 19            In order to enable the PCC to exercise the functions of their office effectively, they will need access to information and officers and staff within their force area. Such access to any information must not be unreasonably withheld or obstructed by the Chief Constable

and/or fetter the Chief Constable's direction and control of the force;  
and,  
Para 23(d) Providing the PCC with access to information, officers and staff as required.

3.7 In response, CC Guildford has offered that his substantive Chief Finance Officer, Mark Kimberley, may temporarily act as a Joint Chief Finance Officer for both the PCC and Nottinghamshire Police until 30<sup>th</sup> April 2022. I wish to extend my thanks to CC Guildford for providing this collegiate support to my Office, and would further note that CC Guildford's provision of support will ensure the continued operational effectiveness of Nottinghamshire Police.

3.8 Mr Kimberley's CFO service provision to the Office of Police and Crime Commissioner for Nottinghamshire will be enabled through a short-term arrangement between our Office and Nottinghamshire Police. The arrangement will terminate after 30<sup>th</sup> April 2022.

3.9 This report now explains:

- a) The short-term arrangements since 22 December 2021 made in order to comply with s7 of the 2011 Act; and
- b) By way of statutory notification, the proposed Interim Chief Finance Officer arrangements for the time being.

3.10 Members will note that this report now proposes a Joint CFO arrangement between myself, as PCC, and CC Guildford, to ensure continuity in provision of a statutory CFO in my Office, and the operational effectiveness of Nottinghamshire Police.

#### **4. Summary of Key Points**

4.1 Mark Kimberley is the individual formally proposed for appointment as Interim Chief Finance Officer. He is substantively employed as CFO for Nottinghamshire Police, where he has worked for seven years. If he is appointed as temporary CFO for my Office, that will effectively make him a Joint Chief Finance Office for both myself and CC Guildford.

4.2 Schedule 1 7 (1) PRSRA 2011 governs my responsibilities in terms of the appointment of a substantive and (as necessary) acting CFO. Members must review my proposal, undertake a confirmation hearing and report within three weeks of being notified of my proposal.

4.3 The statutory responsibilities for CFOs in policing are brought together by 'The Role of CFOs in Policing,' Chartered Institute of Public Finance and Accountancy (CIPFA) March 2021, which states the CFO:

- is a key member of the leadership team, helping it develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest;
- must be actively involved in, and be able to bring influence to bear on, all material business decisions to ensure immediate and longer-term implications, opportunities and risks are fully considered, and aligned with the organisation's financial strategy; and,
- must lead the promotion and delivery of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

4.4 As mentioned at paragraph 3.4, the current role profile, attached at Appendix 1 has been reviewed and will be job evaluated shortly. As such, the job description and person specification are subject to change. These documents will be published on my website when recruitment for the role opens, anticipated to be later this month.

4.5 Mr Kimberley is a suitable candidate to act as temporary CFO for my Office; he has a demonstrable track record in public service which includes:

- The necessary qualifications for the role, as set out within S113 Local Government Finance Act 1988;
- Substantial experience and knowledge gained from working at principal and executive levels within public sector organisations;
- Experience of providing statutory functions to a Chief Constable;
- A comprehensive understanding of Police Service finance and governance arrangements and of operating within a corporate governance framework; and,
- Comprehensive knowledge of Nottinghamshire Police, and the decision-making arrangements in place within the organisation.

4.6 Mr Kimberley has significant experience as Chief Finance Officer, having previously worked for Gedling Borough Council between 1991 and 2016, his CV is attached at Appendix 2.

4.7 In view of Mr Kimberley's track record, my own experience of working with him since I was elected to Office, and having taken counsel from my CEO, external auditor and the CC, I am confident that Mr Kimberley has the necessary qualifications, skills, and experience to act as a Temporary Chief Finance Officer to the OPCC until the role is properly appointed to through the impending open process.

4.8 I am cognisant of the risk presented by temporarily combining the two CFO posts and designating a single officer, as described in pages 19-20 of the CIPFA guidance. It should be noted that benefits can also be offered through Joint CFO arrangements, and that this is considered pragmatic at the present time. I am advised that this does not give rise to any contravention of the provisions of the PRSRA 2011, and there will a cost saving benefit in the short-term.

4.9 However, while I embrace the interim benefits provided through the Joint CFO, this is not my preferred configuration for fulfilment of the OPCC CFO role beyond the short-term statutory need, thus my intention to recruit into a separate distinct role for the OPCC soon.

4.10 In recognition of the corporate risk posed through the Joint CFO role, I have asked by CEO to formally advise the Chair of the Joint Audit Committee of the governance risks presented through the combined CFO post. To mitigate these risk, I have also requested that appropriate safeguards be put in place, including:

- The appointment of a deputy CFO within Nottinghamshire Police;
- The development of a Joint Protocol between myself and the Chief Constable to establish a control framework, referencing the Policing Protocol Order 2011, for protecting the impartiality of the CFO's advice to the two corporate soles, and to navigate any areas of conflict appropriately;
- Review of the Joint Code of Corporate Governance;
- Review of the role profile of the CFO, to ensure its adherence with the five CFO principles set out by CIPFA, and ethical behaviour including
- Requesting a review by the joint audit committee to ensure that the CFO is not subject to undue pressure by either myself or the CC;
- Using the resources of internal and external audit, Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services to offer independent advice on specific issues; and,
- Commissioning a peer review from Durham Constabulary's Assistant Chief Officer (S151 officer) to provide advice on the financial management and efficiency of both corporate soles, including how information and assurance is provided to the PCC, and the process for risk management and dispute resolution.

4.11 A further safeguard is available through s36 PRSRA 201, which requires the CC to give all relevant information to the PCC as needed. In ensuring this requirement is fulfilled, the S151 status of the CFO requires him to act in the public interest should he consider that undue pressure is being placed on him to act in a manner which is unprofessional. Internal whistleblowing procedures (Bad Apple) are in place to protect the CFO in this regard. Section 114 of the Local Government Finance Act 1998 requires the Section 151 Officer to issue a report if there is likely to be unlawful expenditure or an unbalanced budget.

## **5. Financial Implications and Budget Provision**

5.1 The agreement that has been developed between my Office and CC Guildford sets out the terms and conditions of his temporary appointment, which includes:

- Remunerating Mr Kimberley for additional work undertaken to fulfil a temporary full-time joint CFO role, paid at the rate for the OPCC CFO, top of grade, and uplifted by 10% for combined duties undertaken. The top up to his existing salary will be recharged to the OPCC;

- Remunerating an internal Nottinghamshire Police appointee, Mr Danny Baker for additional duties undertaken temporarily to fulfil the role of Deputy CFO, at one full grade above his existing salary to account for the additional responsibility. The top up to his existing salary will be recharged to the OPCC;
- Payment of an honorarium each month to Chief Accountant Maria Fox for additional work undertaken by her to support the above-mentioned temporary arrangements
- Payment of additional monies towards the cost of an internal Nottinghamshire Police appointment to temporarily act up to Head of Transport to cover Mr Kimberley's abstraction into a joint CFO role for the two corporate soles.

## **6. Human Resources Implications**

6.1 In accordance with Schedule 1 6 PRSRA 2011, I am required to appoint a CFO, who:

- acts as my principal advisor in respect of the financial affairs of my Office;
- manages the totality of the Finance Affairs of my Office in all its dealings;
- is a member of a specified accountancy body;
- reports to internal and external auditors, Joint Audit Committee, and Police and Crime Panel on budget and precept, adequacy of financial reserves, compliance with prudential capital regime, and adherence to financial regulations
- reports on any unlawful expenditure or an unbalanced budget; and,
- maintains effective audit, accounting, and control systems

6.2 The terms and conditions of service are set out within the attached job description and person specification. They are also referred to within the written arrangement that my Office has formally agreed with CC Guildford, Mr Kimberley's employer, in respect of the temporary provision of his services.

## **7. Equality Implications**

7.1 The Equality Act 2010 introduced a duty on public authorities to, in the exercise of their functions, have due regard to the need to: eliminate conduct prohibited by the EA 2010, such as discrimination, harassment and victimisation related to an individual's protected characteristics; and, to advance equality of opportunity and foster good relationships between people in carrying out their activities.

7.2 The appointment of a CFO will ensure that the discharge of my Office's functions is lawful and fulfils my duties under EA 2010.

7.3 As further assurance, I have commissioned an open and transparent process to be undertaken in order to promote equality of opportunity during the recruitment

for a substantive Chief Finance Officer following Mrs Radford's departure from the OPCC.

## **8. Risk Management**

- 8.1 As noted at paragraph 3.2, the law does not permit me to have a gap in Chief Finance Officer provision. This temporary appointment mitigates against any breach of the requirement at Schedule 1 7 (1) PRSRA 2011. The statutory appointment of a Chief Finance Officer creates provision for management of risk within my Office and in the discharge of its functions.
- 8.2 However, the appointment of Mr Kimberley as temporary CFO for both myself and the CC does create corporate risk, as noted at paragraphs 4.8-4.11. Mitigations against the identified risks arising from joint CFO provision have been detailed in paragraphs 4.10-4.11.

## **9. Policy Implications and links to the Police and Crime Plan Priorities**

- 9.1 The appointment of temporary Chief Finance Officer will ensure that the staff within my Office discharge its functions in accordance with the PRSRA 2011.
- 9.2 This appointment will also ensure that the delivery of the priorities within my Police and Crime Plan are appropriately costed and budgeted for.

## **10. Changes in Legislation or other Legal Considerations**

- 10.1 As noted at paragraph 3.2, the law does not permit me to have a gap in Chief Finance Officer provision. The proposal of this temporary appointment will mitigate against any breach of the requirement at Schedule 1 7 (1) PRSRA 2011.

## **11. Details of outcome of consultation**

- 11.1 None – for information only.

## **12. Appendices**

- 12.1 Appendix 1a: CFO Job Description and Person Specification  
Appendix 1b: Mark Kimberley CV

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