
TIER 3 APPOINTMENTS PROCESSES

APPOINTMENTS PANEL BRIEFING

Version Final 31st January 2023

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1. Introduction

This document presents the processes to appoint to Tier 3 at Somerset Council, that have been agreed by the Appointments Panel. The paper summarises legal, constitutional and process considerations, as well as salary comparisons for the roles. The document deals just with appointments. It excludes consideration of redundancy and dismissal processes which would apply, where relevant, post Vesting Day.

2. Legal Requirements

The merger of one or more organisations into another will result in the transfer of staff under relevant TUPE legislation. In the case of local government reorganisation, this is confirmed in Regulation 4 of the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008.

- There is a requirement to recruit a 'head of paid service' for the new single-tier authority through open competition. This process concluded in July 2022, with the appointment of Duncan Sharkey following approval by a meeting of Full Council.
- The regulations do not require that other chief officer posts are recruited to through open competition, although there is an 'expectation' that this be done. This point has been considered as part of the recommendations in section 14.
- The functions of advertising, recruiting and appointing chief officers and their deputies shall be discharged by Somerset County Council as the continuing authority, as delegated.
- The Government has produced guidance on staffing issues arising from Local Government Restructuring - [Staffing Issues Guidance080605.pdf \(lgpsregs.org\)](#)
- There are of course employment law concerns that need to be considered, as part of this paper and subsequent processes. These include: Transfer of Undertakings (Protection of Employment) Regulations 2006, Employment Rights Act 1996, Trade Unions and Labour Relations (Consolidation) Act 1992 and the Equality Act 2010.

3. Constitutional Requirements

Appointments to Senior Leadership Team (SLT) posts must be conducted in accordance with relevant local government requirements, to be considered lawful and to avoid potential future challenge. Tier 3 posts are deputy chief officers apart from the monitoring officer which is a statutory chief officer. These appointments will need to follow the requirements set out in the constitution of the continuing authority, in the absence of alternative provisions for the new council. In this case, this will mean using Somerset County Council's current Constitution.

The requirements for appointing to Senior Leadership Team posts, at grades 1-3 in Somerset County Council, are as follows:

3.1. Appointments Panel

The consequence of this is that as part of the process, a proposal to appoint to a Senior Leadership Team post will need to be put before an appointments' panel. The panel will consist of the Leader, the Opposition Leader and the Deputy Leader of the Council (or their nominated representatives) plus any relevant Cabinet members as consultees.

The role of the panel is to review the job description and terms & conditions of employment relating to a post, make appropriate recommendations to the Chief Executive, decide on

the process and to appoint the Appointments Committee to undertake the appointments' process.

3.2. Appointments Committee

The Appointments' Panel agrees the process to appoint to the role and then proposes the membership of the Appointments' Committee. This typically includes the leader (or deputy), the relevant Cabinet member and the opposition lead for the area to be recruited to. The Constitution specifies a maximum of 5 members of the committee, with the remaining 2 places assigned based on the rules of political proportionality. The implications of this are that each committee will comprise 3 Liberal Democrats and 2 Conservatives.

The role of the Appointments' Committee is to 'run' the process. This will include agreeing the shortlist for the role, interviewing and then confirming the appointment, with the designation of the monitoring officer role being decided by full Council.

Given the timescales before vesting day and the sheer number of appointments it is recommended that the appointments panel delegates the shortlisting and appointment decision to the Chief executive in consultation with the appointments committee, who will undertake an interview.

3.3. Proposals on how to broaden engagement and involvement

The Constitution is prescriptive on a number of parts of this process and we do need to be mindful as to the lawfulness of these appointments. However, it is also vital that we ensure that there is representation, involvement and engagement with all 5 local authorities (ahead of Vesting Day) and political parties. In terms of the chair arrangements and voting membership of an Appointments Panel and Appointments Committees, in line with the County Council's Constitution, can only be from the County Council elected members who are appointed to those bodies. The following is therefore proposed:

3.3.1. The Appointments' Panel comprises the Leader, Opposition Leader, and Deputy Leader of Somerset County Council. Leaders of the district councils (or their deputies) are included as consultees (as per the chief executive appointment process). This Appointments Panel oversees the processes for each of the fourteen posts that we are appointing to at Tier 3 (see section 4).

The Panel appoints Appointments Committees for each role, to run the processes for the service director posts. This enables specific interests (e.g. executive and shadow portfolio holders, committee chairs) to be represented and ensures engagement from numerous councillors in these processes.

3.3.2. The interviews for the posts include a range of interests, including all 5 authorities (to include staff as well) and partner organisations.

3.3.3. The process will be administered by the People Workstream for the Unitary Programme. Other arrangements include:

- The appointment of a recruitment partner, to receive applications, advise on job descriptions and salary levels, help with interview questions, and to provide independence to the process given potential conflicts of interest at senior officer level.

- Assistance from County & District HR Advisory Services to administer the Appointments Panel meeting(s) and to advise the Appointments' Committees.
- Assistance from Democratic Services to administer the Appointments Committees' meetings.

4. Tiers 2 & 3 Structure for Somerset Council

4.1. Structure

The proposed structure for at tiers 2 & 3, for Somerset Council, can be seen in the embedded Powerpoint Presentation:



Somerset Council
Structure Proposals R

All staff in the 5 local authorities have been consulted with about the structure; this process concluded on 12th December 2022. Separate pre-transfer consultations have also been conducted on (i) redundancies that may come about through this structure (ie collective consultation conducted by Somerset Council with employee representatives, following the agreement of district councils to this consultation taking place) and (ii) the transfer of staff under TUPE from district councils to Somerset Council (which is being led by the districts with employee representatives of their staff and by the County Council with employee representatives of its staff).

4.2. Posts in scope

Appointment processes are proposed for the following posts:

- Service Director Climate, Environment & Sustainability
- Service Director Infrastructure & Transport
- Service Director Economy, Employment & Planning
- Service Director Housing
- Service Director Culture
- Service Director Customers
- Service Director Regulatory & Operational
- Service Director Finance & Procurement
- Service Director Strategic Asset Management
- Service Director Information Communication & Technology
- Service Director Partnerships & Localities
- Service Director Strategy & Performance
- Service Director Governance, Democratic & Legal Services
- Service Director Workforce

4.3. Posts out of scope

The following posts are excluded from these processes:

- Service Director of Public Health

- Service Director of Children and Families
- Service Director Commissioning & Performance
- Service Director Inclusion
- Service Director Education, Partnerships & Skills
- Service Director of Adult Social Care Operations
- Service Director Adult Social Care Commissioning
- Service Director Adult Social Care Transformation

The reasons for excluding these posts are as follows:

- They are broadly unchanged, based on the proposed structure, therefore the current incumbents will continue in post.
- There are no other suitable interested parties transferring into Somerset Council from the district councils, therefore there is no competition that would be appropriate under existing employment legislation.

5. Process Considerations

These are significant posts that are subject to member appointments processes. They are also key to linking service and corporate strategies and as such, there will be interest in assisting with the appointments from partner organisations, staff and elected members. The roles are part of the Senior Leadership team and as such, the Chief Executive will want to be part of the interview processes, advising the Appointments Committees.

The Appointments Panel have therefore considered the following:

- There are 14 posts that we are recruiting to.
- Each post is subject to a member appointments process, which necessitates up to 5 members per panel.
- The Appointments Panel, working with the Chief Executive and relevant Executive Director, will review all of the job descriptions.
- The Appointments Panel will establish an overarching Appointments Committee, to delegate the following functions to the Chief Executive and relevant Executive Directors:
 - Matching decisions – delegated to chief executive and relevant executive director, in consultation with the Leader of the Council and relevant Appointments Committee
 - Shortlisting decisions – delegated to chief executive and relevant executive director, with the Appointments Committee for the role attending the meeting (which can be done via MS Teams)
 - Interviews and appointments decisions – Appointments Committees, in person.
- Training will be provided to each elected member taking part in appointments committees, covering equality, diversity and bias (where this hasn't been received in other, recent interview processes).
- Each post will be subject to a 'matching' process, to take account of any 'slot-ins' or 'ring-fencing'. This part of the process is crucial, having been agreed as part of our Organisational Change Principles and to comply with employment legislation.

- Support will be required from Democratic Services, with regard to setting-up panels, minuting meetings and publishing decisions.
- Interview processes and administration will also be supported by HR leads, business support and project management.
- The sequencing of interview processes over a day will limit how many processes can be run. For example, staff and stakeholder panels will need to provide feedback to the Appointments Committee ahead of its interview; therefore the Committee is always the last panel to meet.
- We are likely to have significantly more applicants for tier 3 roles than for tier 2. The processes will be 'open' to internal candidates, unless there is a matching or ringfenced process to be run.
- Executive Directors will 'own' the appointments processes, relevant to their respective directorates.
- We have completed consultations on potential redundant posts and the structure at Tier 3. There are no significant changes following the Tier 2 appointments that will necessitate further consultation.

6. Resource

To ensure that we can run these processes quickly, thoroughly and fairly, we will appoint a team to support each Executive Director and Appointments Committee. This is as follows:

- Senior HR lead
- Project Manager
- Democratic Services officer
- PA/Business Support

The contract with our recruitment partner, Faerfield, means that we will have support for assessment of applications and preparation of interview packs.

7. Proposed Selection Process

The selection processes include the following elements:

- Matching processes – invitation to staff to apply, to be assessed by an officer panel and recommendations to the Chief Executive and relevant Executive Director, in consultation with the Leader of the Council and Appointments Committee.
 - If there is no single match ('slot-in'), then we move to advertising the roles (noting that there might be multiple matches to a post, therefore we run a ring-fenced process).
 - The officer panel will comprise HR advisors, JE expertise and trade union rep.
 - The Chief Executive and relevant Executive Director will take a decision on whether there is a match to a post.
- Written application including supporting statement and CV.
- Shortlisting by the Chief Executive and relevant Executive Director and in consultation with the relevant Appointments Committee.

- Appointment Committee/ Member interview panel inc. Executive Director, Duncan Sharkey and Senior HR advisor
- Stakeholder/Partners panel – committee advise on who they want involved, suggestion is that we use the existing recommendations.
 - Propose that we have up to 5 stakeholders per panel
- Staff panel (aim for one from each district and 4 from SCC, relevant to the directorate, plus trade union representation) – Q&A session focused on leadership and culture.
- Appointment Committee Decision meeting per role at end of each day.

The process may be split over 2 days, to enable efficient feedback to the Appointments Committee prior to an interview

8. Timeline

The timeline for appointing to these tier 3 posts is challenging, with Vesting Day on 1st April 2023 and an objective of having tiers 2 & 3 commence in role on that day.

- Table One shows a proposed timeline, to reflect an ambition to offer appointment to Tier 3 posts in March 2023.
- The timeline assumes there have been no major changes to the structure, following Tier 2 appointments, requiring further consultation.
- In the table, w/c 9th January is Week 1. Full Council takes place in Week 7 and February Half Term takes place in Week 6.

Table 1 - Tier 3 Recruitment Timelines

Date(s)	Activity
12/01 – 20/01	Review JDs and person specs for Tier 3 – Tier 2s and Duncan
	Notice and Appointments panel meeting
18/01	Appointments Panel to meet to agree process for Tier 3 and appoint committees
	Finalise JDs, Salaries and send to Panel – Tier 2s and Duncan
01/02	Appointments Panel to meet to finalise JDs and person specs
02/02 – 08/02	Window for staff to submit for matching process
09/02 – 10/02	Tier 3 matching / ring-fencing (pairs)
13/02	Tier 3 matching assessments combined meeting to put forward recommendations to Chief Executive
	Report to FC published on new structure, salaries over £100k and designations
20/02 – 21/02	Matching Decisions – delegated decision
20/02 – 21/02 (by 22/02)	Advise staff slot-ins / ringfence or unsuccessful challenge
22/02 – 01/03	Window for Tier 3 applications
	FC informed of structure agree £100k salaries and designations
03/03 and 07/03	Shortlisting packs to Chief Executive, Executive Directors & Appointments Committees – delegated decision
07/03 and 10/03	Shortlisting sessions by Chief Executive, Executive Directors & Appointments

	Committees
	Notice of Appointment committee meetings (appointment)
08/03 and 13/03	Email confirmation to shortlisted candidates
13/03 – 23/03	Tier 3 recruitment (interviews)
	Executive objection process
	Chief Executive Appointment Decisions
24/03	Tier 3 structure will be known

9. Slot-Ins and Ring-Fenced Processes

The Organisational Change Principles describe how an employee may be slotted into a post or be part of a ring-fenced process for a post(s) if their existing substantive job is a broad match (75%) to that role.

Candidate Matching Process

9.1. To apply for matching to a new role, candidates must provide a copy of their current job description and person specification and organisation structure and demonstrate, using the categories, below, how their current role is a 75% match or more to the new role (*this is particularly important if, for example, a job description is out-of-date*).

9.2. A panel of two officers will assess each request, with recommendations made.

9.3. A review panel consisting of trade union representatives, district & SCC HR Leads and a JE specialist will review the recommendation from the first panel.

9.4. The review panel will then make recommendations to the Chief Executive. The decision of the Chief Executive, in consultation with the Appointments Committee will be final.

Pro Forma Categories for Job Matching

Factors that will be considered for job-matching include:

- Current areas of responsibility
- Budget (perhaps as a percentage of organisational budget)
- Staff Headcount (perhaps as a percentage of organisation)
- Professional Qualifications or relevant registration required
- Current Organisational Tier

10. Other Considerations

10.1. Organisational Change Principles

A set of principles governing organisational change has been agreed with trade unions and senior managers.

The principles describe how staff can be slotted-in or ring-fenced for a post, based on their current role being a broad match (75%) to the new post(s).

The Change Principles can be seen in Appendix One.

10.2. Job Descriptions

Job descriptions have been drafted and evaluated. Corporate Responsibilities for Service Directors are shown in Appendix 2.

10.3. Salary

Salary comparison work has been done, with the results presented in Appendix 3.

Any salary over £100k will need to be approved at a meeting of full Council and it is proposed that this happens when the restructure is reported at the meeting in February. The proposals exclude Adults Services, Children's Services and Public Health, at this stage.

The following is recommended for adoption by Somerset Council, in respect of pay & grading at tier 3:

- There are 3 ‘levels’ within Tier 3. This enables us to reflect the relative weightings & outcomes from job evaluation. These levels are SD1, SD2 and SD3:
 - o SD1 - £115k-£118k
 - o SD2 - £110k-£115k
 - o SD3 - £100k-£105k
- These salary levels broadly reflect arrangements in similar sized unitary authorities and the responsibilities attached to the roles.
- Appointees will receive spot salaries, subject to an annual cost-of-living pay increase.
- Recruitment & Retention Premia may still be applied, in line with Somerset Council policy.
- The levels, however, do not give us much ‘headroom’ for Tier 3 roles in Adults and Children’s Social Care. Current pay for Directors of Operations in these areas is £113k, which means the roles would need to be evaluated at SD1 (this work is being undertaken). These are also highly competitive areas for recruitment.
 - o The panel may wish to consider setting these salaries at a higher level to ensure there are no immediate pressures in the first 12-months of
 - o Somerset Council.

11. Risks

There are a number of risks inherent in senior appointment processes. These are perhaps magnified when running a campaign to recruit to a new leadership team, whilst merging 5 organisations and running TUPE processes:

Risk	Mitigation
Inability to appoint due to either a) no applications or b) inappropriate applications	<ul style="list-style-type: none"> • Assess whether there is suitable alternative employment to be applied to staff • Interims & external advertising
Employment Tribunal Claims (which could for example, include claims for unfair dismissal and unlawful discrimination) following unsuccessful applications	<ul style="list-style-type: none"> • Use of robust selection processes involving independent advisors • Regular conversation with retained employment lawyer
Appointments don’t work out	<ul style="list-style-type: none"> • Performance management

12. Other Options

The following alternative options have been considered:

- Advertise posts externally
 - o The Regulations set an ‘expectation’ that this is done

- Advertising externally will add 3-6 months to the appointments process. We will therefore not have tier 3 in place until Early-Late Summer 2023
- It would present considerable employment-law risk, regarding unfair dismissal and breach-of-contract claims
- Look to slot as many people into post as we can
 - This would provide a quick process and some certainty to the structure
 - However, it would also present employment-law risks
 - Culturally, it would look wrong and remove 'legitimacy' to appointments processes

13. Recommendations

- The Panel endorses the processes to be run across the 5 councils initially, with any unfilled post going quickly to external search & advertising
 - Temporary arrangements, such as acting-up, reallocation of duties and interim appointments would be discussed at the time.
- Appointments Committees set up for each post.
- The Panel supports the format for the interviews (section 7), to include:
 - Delegation to the Chief Executive and relevant Executive Director for decisions on matching requests and shortlisting, in conjunction with the Leader of the Council.
- The Panel will review each job description, working with the Chief Executive and Executive Directors.
- The Panel notes the salary ranges represented and waits for further recommendation following job evaluation and structure for Tier 3 salaries (section 10.3).

**Chris Squire, Director of Customers, Digital & Workforce, Somerset County Council
(Joint Lead for the LGR People Workstream)**

Appendix One – Organisational Change Principles

The Organisational Change Principles that have been agreed to cover LGR reorganisation can be viewed in the following embedded document:



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hange%20Principles%

Appendix Two – Job Descriptions

JDs have been written and can be viewed in the following folder:



OneDrive_1_31-01-2023.zip

Draft Corporate Responsibilities for the JDs have been produced, to be included in each of the Tier 3 JDs. These are as follows:

EXECUTIVE DIRECTOR- CORPORATE OBJECTIVES

SOMERSET COUNCIL

Somerset's county and district councils have worked together with partners, City, town and parish councils and residents to create a new council which delivers for everyone.

With a population of 560,000 Somerset is a County of contrasts. Home to farming and engineering; manufacturer of cheese and cider but also the UK'S only helicopter maker; low skill jobs in the tourist industry vs high skilled jobs in the UK Hydrographic Office and Hinkley Point power station; picture postcard villages with limited public transport and bustling, thriving market towns with good road and rail links. The new council will harness the strengths of the previous district and county councils and enable us to put in place solutions that will help address the concerns and challenges that Somerset faces now and in the future.

At the heart of this new council is a commitment to local communities to give local people real power and real influence over the decisions that affect the most. Local community networks that engage with local voluntary and community organisations and put parish and town councils front and centre in their own areas are being established and will provide focus for local engagement.

SERVICE DIRECTOR - CORPORATE RESPONSIBILITIES

- Provide clear leadership to deliver the Council's strategic priorities and meet the Council's financial targets, as a member of the Council's Senior Leadership Team.
- Advise & guide Elected Members in respect of planning, operational and policy issues in relation to the *Name* Services teams.
- Lead the *Name* Service Operational teams with a clear identity in terms of its flexible and responsive ways of working, inclusive and diverse culture, and high level of employee engagement and wellbeing.
- Engage in strategic partnerships and promote and communicate the Council's services.
- Act as an ambassador for the Council promoting, both internally and externally, the Council's vision, strategic aims, and values.
- Value the diversity of Somerset's communities ensuring equality of access and treatment in service delivery and employment.
- Act as a role model for Somerset's vision and values. Promotes a culture of continuous improvement that encourages creativity and innovation to ensure services are efficient and responsive to local needs.
- Develop the potential and flexibility across the Council and its workforce including the motivation and development of employees within the *NameServices* teams.

- Ensure that all services place a high value on customer responsiveness by demonstrating a commitment to meeting and involving the broadest range of direct and indirect service users, citizens, customers, communities, and businesses, as well as defining performance measures linked to customer care.
- Leads and supports the delivery of the Council's key strategic aims and objectives ensuring understanding and commitment from managers and staff from across the *name*Services teams.
- Ensure that the Council can meet new challenges and initiatives by keeping abreast of challenges and opportunities facing public services, taking proactive steps to exert influence across the broad range of policy makers, public bodies, and suppliers.
- Support Corporate and Directorate specific transformational change programmes with the aim of maximising efficiency, modernising services, and achieving better outcomes and opportunities for service users and customers.
- Ensure flexibility in reacting to the needs of the Council, its' customers and partners supporting a culture of continuous improvement.
- Ensure compliance with all relevant legislation, organisational policy, and professional codes of conduct in order to uphold standards of best practise.
- Member of the corporate on call roster at strategic level to set strategy and co-ordinate at the tactical level activity when responding to internal and external emergencies/major incidents which may require a response during unsocial hours.
- Undertake relevant training and exercises commensurate with Strategic Officer responsibilities including but not limited to Multi-agency Gold Incident Commander (MAGIC).
- Accountable for compliance with all relevant health and safety legislation and Somerset Council H&S policies, ensuring there is effective resourcing and management of operations to deliver this.
- Act as change champion to translate organisational ambitions into real achievements. The role must balance internal and external focus to ensure the economic, social, and environmental wellbeing of the Council.

together we are delivering your

New Somerset Council

Appendix Three – Salary Benchmarking

Salary benchmarking and proposals can be viewed in the following document



Somerset Council
Service Director Pay 8