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## EAST MIDLANDS COMBINED COUNTY AUTHORITY BOARD

<b>Date</b>	<b>20 March 2023</b>				
<b>Report Title</b>	<b>Proposed Statutory Officers Structure</b>				
<b>Accountable EMCCA Board Member</b>	No Member identified due to nature of this being first EMCCA Board meeting				
<b>Accountable Chief Officer</b>	Mark Rogers Interim Chief Officer				
<b>Accountable Employee</b>	Amanda Mays Interim Operations and People Lead				
<b>Report has been considered by</b>	Informal Leaders Meeting				
<b>Key decision</b>	Yes	<b>Public Report</b>	Yes	<b>Voting Arrangements</b>	By simple majority of Constituent Members

### Recommendations for action or decision:

The East Midlands Combined County Authority (EMCCA) Board is recommended to:

- 1 **Appoint** interim Statutory Officers as part of the interim structure for the Combined County Authority as follows:
  - a. **Mark Rogers** (Interim Chief Office, East Midlands Devolution Programme) to the interim Head of Paid Service;
  - b. **Mark Kenyon** (Director of Finance and s151 Officer, Derbyshire County Council) to the interim Section 73 Officer;
  - c. **Jodie Townsend** (Interim Governance Lead, East Midlands Devolution Programme) to the interim Monitoring Officer; and
  - d. **Jodie Townsend** to the interim Senior Information Risk Owner.
- 2 **Approve** the establishment of an Appointments Panel for the Chief Officer roles of (a) Chief Executive and Head of Paid Service, (b) Executive Director Inclusive Growth, (c) Executive Director Place and (d) Executive Director Resources (S.73 Officer); and to delegate authority to that Panel to conduct the recruitment and selection process and nominate a candidate for each role (subject to the requirements of the EMCCA Constitution and any legislative requirements) for consideration by the EMCCA Board.

- 3 **Note that recruitment of the final Chief Officer post – the Monitoring Officer – will be subject to a subsequent Board Report.**
- 4 **Note in line with the Constitution the consultation, recruitment and appointment to roles excluding Chief Officer and/or statutory roles are delegated accordingly to the interim Head of Paid Service.**

## 1. Purpose

- 1.1 In order to ensure that the East Midlands Combined County Authority (EMCCA) has appropriate statutory officers, the EMCCA Board is asked to appoint interim Statutory Officers to be legally compliant with the Local Government and Housing Act 1989 and other legislation.

It is also asking the Board to approve the recruitment and appointment process for the Chief Officer roles of the Chief Executive (and Head of Paid Service), Executive Director Inclusive Growth, Executive Director Place and Executive Director Resources (and Section 73 Officer) which form part of the substantive and permanent EMCCA structure.

In addition to note that the consultation, recruitment and appointments to roles excluding Chief Officer and statutory roles is delegated to the interim Head of Paid Service, in line with the Constitution.

## 2. Background

- 2.1 The East Midlands devolution deal signed in August 2022 enabled the creation of England's first Combined County Authority. In doing so it secured significant funds and powers for the region and empowered local people to make the decisions that influence jobs and skills, the quality of the region's transport infrastructure, housing investment, and the region's diverse natural environment. The four constituent councils' subsequent approval of the creation of EMCCA in December 2023 will see the region benefit in the first instance from a £1.14 billion investment fund over 30 years, alongside £1.5 billion in transport funding, £53m for adult education, and £18m for housing, brownfield land and other investments. Alongside this, as a result of the creation of EMCCA, the region is working with national government to establish an 'Investment Zone', which will attract £160 million of support over ten years, with tax incentives for businesses, which will help boost economic growth across the region.
- 2.2 These initial powers and funds are the starting point for an ambitious programme that integrates social, environmental and economic initiatives in innovative ways to improve opportunity and wellbeing in the East Midlands. The period since August 2022 has been one of designing how EMCCA will operate. In March 2024, the need is to confirm the governance, oversight, plan and staffing of the organisation in order for it to start to deliver.
- 2.3 The EMCCA Shadow Board considered the organisation design principles and accompanying "tier 1" senior staffing structure (of Chief Executive and direct reports) at their meeting of 29 January 2024. It was noted that in developing the proposed high-level structure the EMCCA should be a lean, agile, outward-facing organisation that works closely with stakeholders to deliver on the ambition for the region set out in the Devolution Deal and the Proposal. EMCCA's first year will be as a 'start-up' organisation to deliver the functions and level of investment agreed by the Board. Built into the organisation will be the potential to expand – investment, impact, etc – in its early years and in taking advantage of new opportunities as they arise.
- 2.4 The design of EMCCA ensures that all the required statutory officers will be in place and roles evaluated and graded in accordance with the EMCCA's Pay and Grading Framework. The Statutory Officers that are needed within EMCCA are Head of Paid Service, Section 73 Officer, Monitoring Officer, Scrutiny Officer and Data Protection Officer. In addition, EMCCA will appoint one of its officers, or one of the officers of a constituent council, to be the Combined County

Authority's Returning Officer (CCARO) in relation to the mayoral election. The CCARO appointment is included in a separate Board Report.

- 2.5 Various options to fulfil its statutory responsibilities, including interim appointments to the Statutory Officers and / or via Service Level Agreements (SLA) with the constituent councils have been considered. As can be seen in this report both SLAs and interim appointments are being proposed. This ensures that the roles are covered with people who have the required capability, capacity and qualifications (where necessary) to meet the required statutory duties.

### **3. Statutory Officers**

- 3.1 Now that the EMCCA has been created it should agree interim arrangements for the necessary statutory posts which enable it to operate whilst permanent arrangements are secured through new recruitment of the relevant officers.
- 3.2 It is important for the successful establishment of EMCCA that the knowledge gained to date of its ambitions, progress and ongoing activity continues. It is therefore recommended that Mark Rogers (interim Chief Officer, East Midlands Devolution Programme) is appointed as the interim Head of Paid Service. This contract will be temporary pending the permanent appointment to the role, which is covered later in this report, which is currently anticipated to be until October 2024.
- 3.3 Derbyshire County Council is providing financial services and systems to the East Midlands Devolution Programme, and this will continue until EMCCA has completed all necessary steps to ensure a stand-alone and robust financial system. It is therefore recommended that Mark Kenyon (Director of Finance and Section 151 Officer, Derbyshire County Council) is appointed as the interim Section 73 Officer. This will be confirmed by a Service Level Agreement with Derbyshire County Council. This provides continuity and ongoing necessary oversight. This agreement will continue until the permanent appointment to the role, which is covered later in this report, which is currently anticipated to be until October 2024.
- 3.4 Jodie Townsend (interim Governance Lead, East Midlands Devolution Programme) has been supporting the programme of work since January 2024. It is recommended that Jodie is appointed as the interim Monitoring Officer.
- 3.5 In addition, it is recommended that Jodie Townsend is also appointed as the interim Senior Information Risk Officer based on his skills and experience. This contract will be pending the permanent appointment to the role later in the year.
- 3.6 The appointment to the statutory roles of Scrutiny Officer and Data Protection Officer will be subject to a subsequent Board Report.

### **Substantive structure and Chief Officer recruitment**

- 3.7 The Combined County Authority has been created and will now need to appoint the relevant officers needed to ensure that the statutory posts are filled on a permanent basis. The structure for those relevant has been developed by the Shadow EMCCA Board and latterly considered by the constituent council leaders to inform this report. The Chief Executive (and Head of Paid Service) and three Executive Directors with responsibilities for Inclusive Growth, Place, Resources (and Section 73 Officer) will form the first permanent senior management structure. Work is underway to define the structure *below* Chief Officer level.
- 3.9 As proposed in the Constitution where the Combined County Authority proposes to appoint a Head of Paid Service (Chief Executive), Monitoring Officer, an officer with the responsibilities set out in Section 73(1) of the Local Government Act 1985 (Chief Finance Officer) or Chief Officer, the Combined County

Authority will establish an Appointments Panel for the purpose of conducting an open and competitive recruitment and selection process. An Appointments Panel must consist of:

- The Mayor (or their nominee) once a Mayor is in place
- The Lead Constituent Council representative for each Constituent Council (or their nominee)

- 3.10 EMCCA Board approval is sought to establish an Appointments Panel for the recruitment of four Chief Officer posts: Chief Executive (Head of Paid Service); Executive Director Inclusive Growth; Executive Director Place; and Executive Director Resources (S.73 Officer).
- 3.11 The Appointments Panel will approve the job descriptions, broad timelines and range of remuneration. It will oversee the advertising and selection approach including longlisting, shortlisting, and final interviews and consider other elements of the recruitment process such as engagement panels and feedback from the technical assessment. Ultimately, the Appointments Panel will agree a recommended candidate for each role to the EMCCA Board.
- 3.12 Prior to any final appointment offers being made, all Members of the EMCCA Board will be informed by the Appointments Panel of the recommended candidate and have raised no objection within the specified period of two clear working days. Usual pre-employment checks will then commence in line with Human Resources and regulatory procedures and processes.
- 3.13 The Shadow EMCCA Board has previously agreed to appoint an Executive Search Partner to support the recruitment of these Chief Officer roles including to generate a strong candidate pool.
- 3.14 EMCCA has a commitment to fairness and equality and every effort will be made in the search and selection process to allow for a broad range of appropriately qualified candidates, representing the diverse background of the region. All recruitment activity will comply with EMCCA's responsibilities within the Public Sector Equality Duty.
- 3.15 Approval is therefore sought to establish of an Appointments Panel for the Chief Officer roles of (a) Chief Executive and Head of Paid Service), (b) Executive Director Inclusive Growth, (c) Executive Director Place and (d) Executive Director Resources (S.73 Officer); and to delegate authority to that Panel to conduct the recruitment and selection process and nominate a candidate for each role (subject to the requirements of the EMCCA Constitution and any legislative requirements) for consideration by the EMCCA Board.
- 3.16 Recruitment of the permanent Monitoring Officer will be subject to subsequent reports.
- 3.17 The structure below Chief Officer level is under development and, in line with the EMCCA Constitution, the interim Chief Executive has delegated responsibility to determine the structure and progress consultation, recruitment and appoint accordingly.

#### **4. Appendices**

None.

#### **5. Implications**

##### Financial Implications

- 5.1 Funding for the Chief Officer posts will be from the Investment Fund and has been included within the proposed EMCCA budget.

##### Legal Implications

5.2 EMCCA is required to designate one of its officers as Head of Paid Service, Monitoring Officer, Section 73 Officer and a Data Protection Officer under Section 4 of the Local Government and Housing Act 1989.

The Head of Paid Service is a statutory post with the duties set out in Section 4 (3) of the 1989 Act which include reporting (where they think it is appropriate) on the co-ordination of the discharge of the Combined County Authority's functions, the number and grades of staff required, the organisation of staff and their appointment and proper management. The Head of Paid Service cannot be the same person as the Monitoring Officer or the S.73 Officer. The EMCCA is also required to appoint a Statutory Scrutiny Officer and Data Protection Officer, this will be the subject of a future Board Report.

#### Other Significant Implications

5.3 The Chief Executive and Chief Officer appointments process will, in due course, follow the EMCCA's Constitution and appropriate Human Resources policies and procedures.

#### Background Papers

5.4 None