

To the Chair and Members of the
**CHIEF OFFICERS' APPOINTMENTS AND CONDITIONS OF SERVICE
COMMITTEE**

RESTRUCTURE OF TOP TIER MANAGEMENT

Wards Affected	Relevant Overview & Scrutiny Panel (if appropriate)
ALL	N/A

PURPOSE

1. The purpose of this report is to inform the Committee of the implementation stages of the new chief officer structure for the Council.

RECOMMENDATION

2. That the Committee note the assimilations and agreed process for appointing to the remaining vacant posts within the structure.

BACKGROUND

3. In January 2008 the Managing Director undertook a review of the top management structure across the Council. This has been undertaken with full and detailed consultation with staff and trade unions. One of the main features, and benefits, of this process is that it is allowing us to make permanent, a number of interim features that have been in place for extended periods of time.
4. A final structure was published on 1st May 2008 which is currently being implemented. The final paper outlined the process for implementation in line with best HR practice. This was split into four stages:
 1. Ring Fencing – Priority 1 (Assimilation)
 2. Ring Fencing – Priority 2
 3. Redeployment
 4. Advert and recruitment (internal in the first instance)

Stage 1 - Ring Fencing – Priority 1

5. Priority 1 ringfencing has been considered where the new structure reveals a post that is substantially the same or substantially unchanged from an existing post in the structure. This consideration took into account the strategic and operational functions of the post as well as staffing and salary levels.
6. Officers who have been assimilated on the basis of at least a 75% match of the post are as follows:
 - Joan Beck – Director of Adult Services
 - Glenys Wall – Assistant Director Social Care
 - Suzanne Joyner – Assistant Director Modernisation & Commissioning
 - Kay Leigh – Director of People & Performance Improvement
 - Paul Evans – Director of Legal & Democratic Services
 - Dave Wilkinson – Head of Trading Services
 - Tom Common – Assistant Director, Early Intervention, Prevention & Support
 - Jane Miller – Director of Neighbourhoods & Communities
 - Gill Gillies – Assistant Director SSSC
 - Julie Grant – Head of Customer Strategy & Development
 - Andy Gutherson – Assistant Director Development & Planning
 - Jill Higgs – Head of Human Resources

Stage 2 - Ring Fencing – Priority 2

7. Where a post has been created which does not meet the criteria for assimilation but where it does subsume a previous post in the structure, or where more than one person could potentially be assimilated to, then those officers in the current posts will be considered in a ring fence for the new post(s).
8. There is currently only one priority 2 ringfence. This is:
 - Assistant Director, Neighbourhoods – there are currently three Area Directors who would be classed as being in a ringfence for these two posts.
9. These individuals have been invited to submit a CV and covering letter application for the post they are ringfenced for.
10. Should there be a situation where not all officers within the ringfence submit an application then, if there are the same number of applicants as posts, it will be considered as an assimilation under Stage 1. Any individual not submitting an application for the post(s) they are ringfenced to would continue to be considered at risk of redundancy

and alternative employment sought for them under stages 3 and 4 below.

11. Where there is competition within the ringfence then appointments will be made by Chief Officers Appointments and Conditions of Service Committee.

Stage 3 - Redeployment

12. Redeployment will be considered if there are new or vacant posts at the same level, i.e. considering tier, salary etc, as an officer who is 'at risk' of redundancy. In this case it will be considered whether the new or vacant post would be appropriate redeployment for the officer before it is opened to recruitment.
13. The process will involve completion of CV and interview.

Stage 4 - Recruitment

14. If all of the above options have been considered and there is no one who meets the criteria, then the post will be internally advertised within Doncaster Council.
15. Applications will be invited by CV and interview and appointments at second or third tier will be subject to Chief Officer Appointments Committee process in line with the Council's Constitution.
16. Where an appointment can be made internally then the vacated post will be considered through the above processes before open advert.
17. Where it is not possible to recruit internally, then posts will be advertised publicly, with the necessary decisions by Chief Officers Appointments Committee.

RISKS AND ASSUMPTIONS

18. There is the potential risk that an officer may ultimately find themselves at risk of being made compulsorily redundant. However, following the above method of consideration of redeployment and other alternative employment, then it will be possible for the Council to demonstrate that they have done everything they could to avoid this situation.
19. Should an officer be unhappy with the outcome of the above process then they may make an application to the Employment Tribunal of unfair selection for redundancy.

CONSULTATION

20. Consultation has been undertaken on the restructure of chief officers and the reduction of posts with all chief officers and with their trade

unions. The Managing Director met with all second and third tier staff individually on an informal basis to explain the structure and the potential situation relating to individuals. In addition, officers who were potentially identified as being at risk in the restructure were invited to meet formally with the Managing Director. Only one officer took up this opportunity.

LEGAL IMPLICATIONS

21. The new Chief Officer Structure arises from the Council's recent restructure which has led to certain positions being changed or deleted. Such changes have resulted in redundancy situations arising.

For redundancy to be a fair reason for dismissal a redundancy situation, as defined in the Employment Rights Act 1996, must apply and a fair procedure must be followed, which includes a fair selection procedure, individual and union consultation and consideration of suitable alternative employment.

The cessation or reduction of the service will require consideration of the employees positions, any redundancy situation will require compliance with employment legislation and the Councils redeployment and redundancy procedure.

The proposed restructure envisages two major implications:-

- (i) A reduction of posts in their existing form; and
- (ii) An increase of posts in their new form.

In the reduction of post requirement, there is the possibility of redundancy situations which will need the employer to engage in:-

- (a) Collective consultation in accordance with legislation;
- (b) Individual consultation; and
- (c) To assess the needs of the people affected.

The purpose of consultation is to:-

- (i) Avoid dismissals.
- (ii) Lessen the impact of the changes.
- (iii) Attempt to find alternatives.

In looking for alternatives, some employee's posts will not change dramatically; there will only be minor changes to the existing terms and

conditions, which can be dealt with in consultation. Where there are proposed major changes, there are greater problems, of redeployment and redundancy.

Any unilateral change can be treated as repudiatory constructive dismissal. Attempts at consultation can go a long way to the employer acting reasonably, in the even of dismissals taking place.

In finding alternative employment, where the terms and conditions are 'like for like' or slightly varied, there is a right to expect the offer to be accepted; any non-acceptance would be unreasonable.

However, where alternative employment is not like for like, it is advisable to proceed with a probationary period of say, one month, so that if the alternative did not succeed, the redundancy would be protected. to retain the workforce, it could be advisable to offer pay protection for the probationary period.

If there is more than one candidate for a position whose will otherwise be redundant then the recruitment to those posts should be limited to those candidates.

It should be made clear to employees that if consultation fails and new terms and conditions are not agreed, or they do not accept a suitable position offered then dismissal could follow on redundancy grounds or for some other substantial reason S.98(1)(b) ERA - relating to a substantial reorganisation. An offer of re-engagement on new terms can go a long way to limiting a compensation award with continuity.

Here there is a potential for the employee to claim unfair dismissal, which opens the Council to financial liability in both the potential for legal costs in defending any claim, and further the potential for damages being awarded to the Employee. Further, the provisions of S.188/189 Trade union & Labour Relations (Consolidation) Act 1992 apply to situations where it is proposed to dismiss and re-engage staff which stipulates that consultation must take place with financial penalties for failure to comply.

FINANCIAL IMPLICATIONS

- 22.** As a result of initial proposals made in the structure, a net cost reduction target of £341k was set for 2008/09, with a further £342k in 2009/10 and a further £8k in 2010/11.
- 23.** Separate decisions are being approved by Statutory Officers Sub Group, to deal with VR or VER, when the outcomes are known. Financial implications of each decision is being reported as part of this process.

24. It is now estimated that a net cost reduction of only £29k of the £341k saving will be achieved in 2008/09. However, it is anticipated that a further net saving of £674k will be made in 2009/10 which will achieve the same level of savings over the two financial years. Officers will manage budgets accordingly to deal with the change in savings profile. It was difficult to forecast savings when the exact posts to be deleted and therefore the cost of VR and VER was not known.

Summary	2008/09 £	2009/10 £	2010/11 £
Salary reductions net of VR/VER	-174	-563	-5
Cost of additional posts	107	67	0
Reductions on BA's / PA's	39	-178	0
Total	-29	-674	-6

25. The overall performance against this net cost reduction target will be reported to CMT, Executive Board, Cabinet & OSMC as part of the quarterly revenue monitoring process.

CONCLUSION

26. The process of restructuring the top tiers of management within the Council has been subject to full consultation and detailed legal and HR advice throughout. The Managing Director and officers have done, and continue to do, all they can to enable the structure to be implemented without the need for compulsory redundancies. However, this may become unavoidable in the later stages.
27. It is recommended that the Committee note the assimilations and agree the process for appointing to the remaining vacant posts within the structure.

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BACKGROUND PAPERS

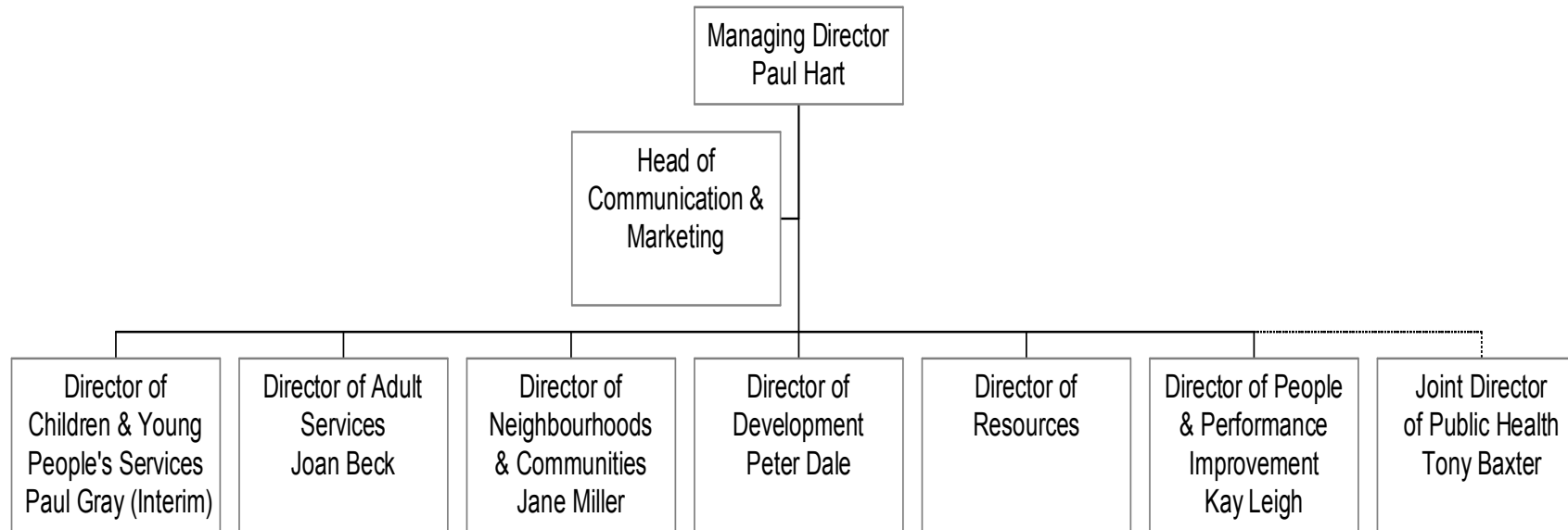
Top Tier Restructure, Final Structure and Process
 Top Management Organisational Structure, May 2008

Paul Hart
Managing Director

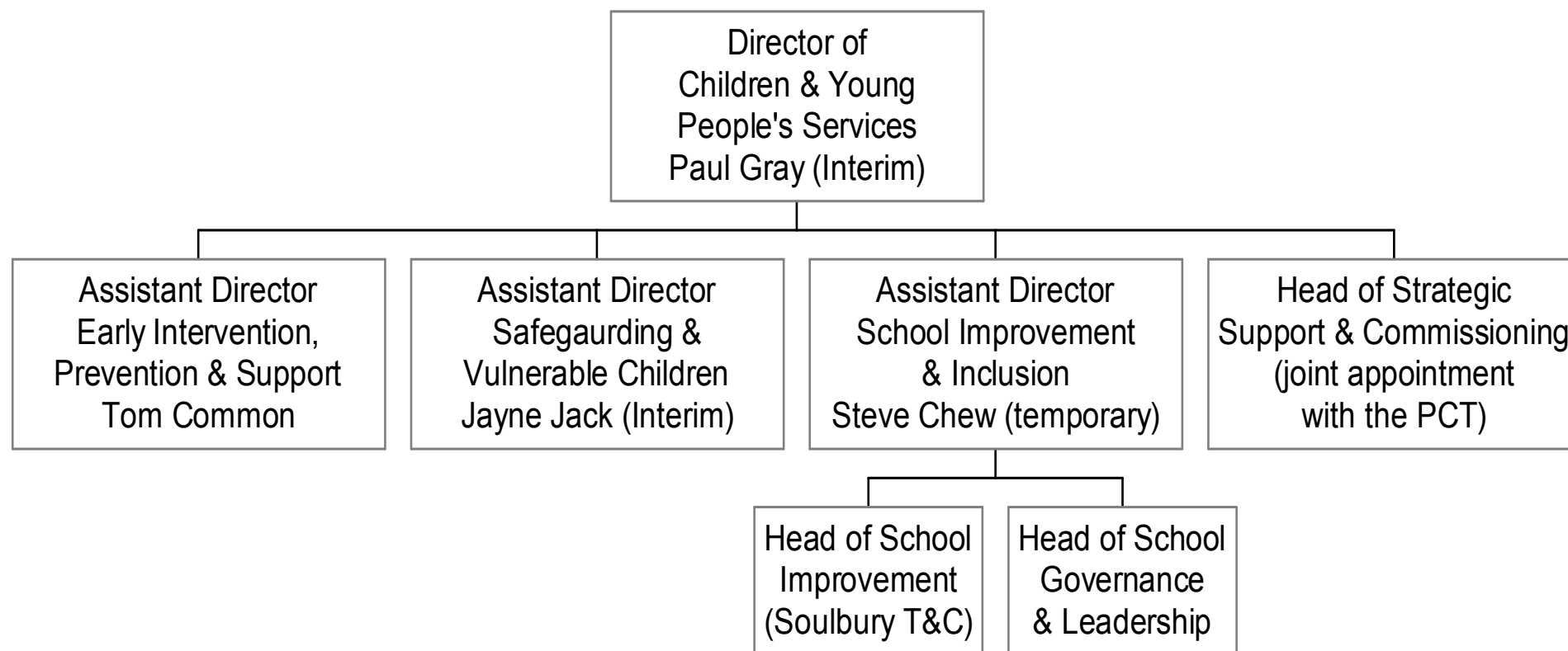
Top Management Organisational Structure

June 2008

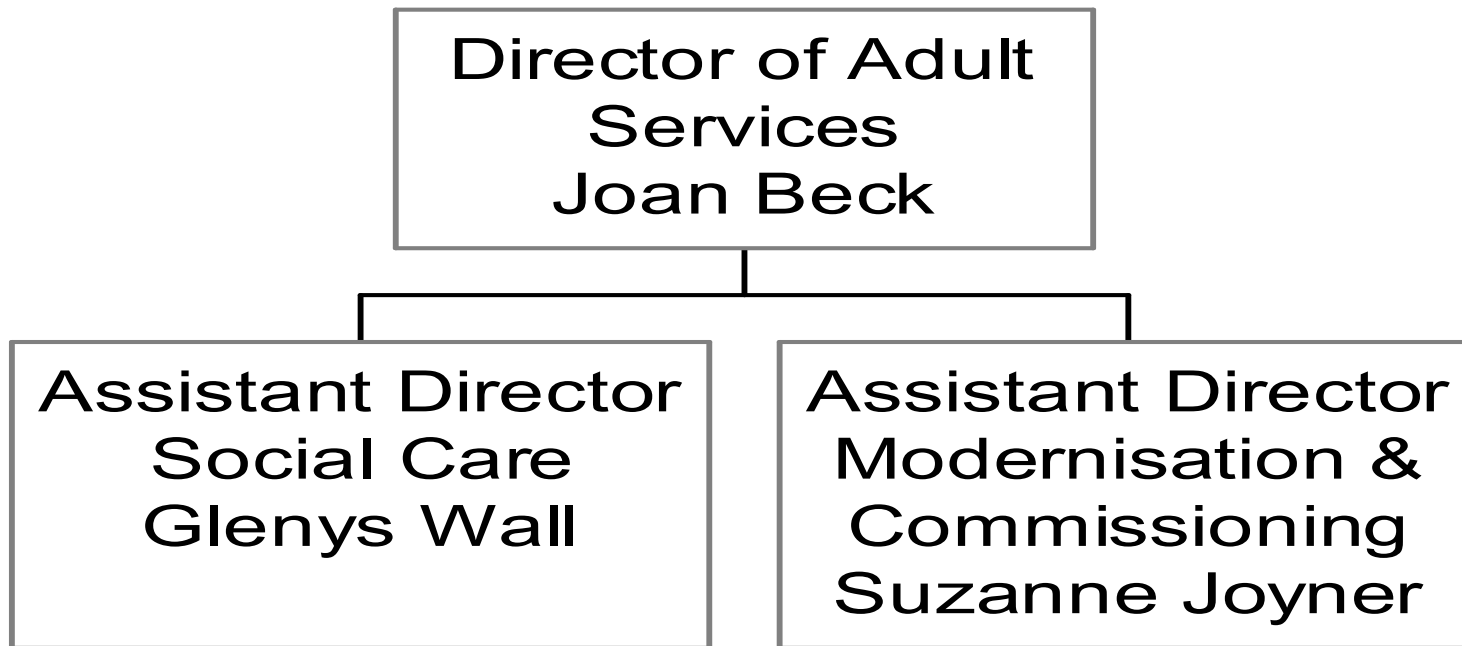
Managing Director and 2nd Tier



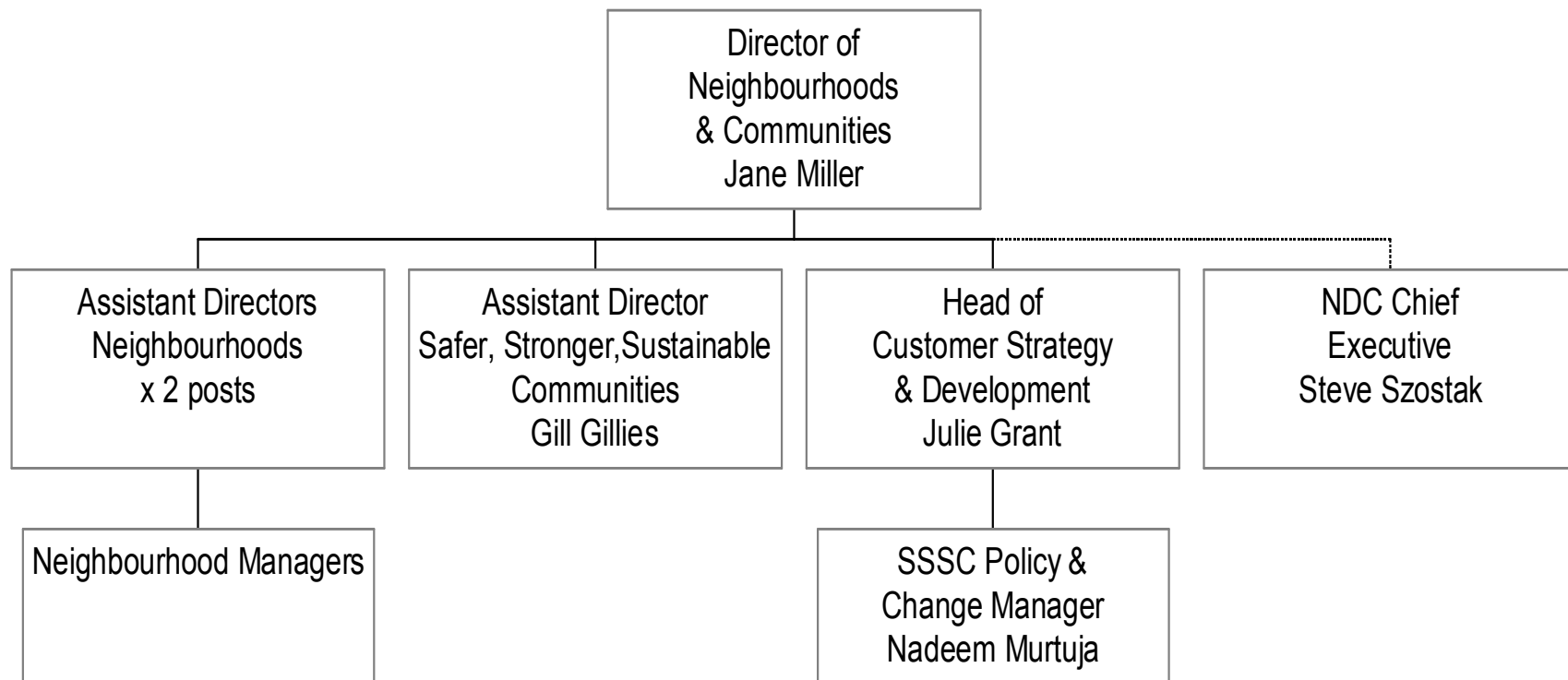
Children & Young People's Services



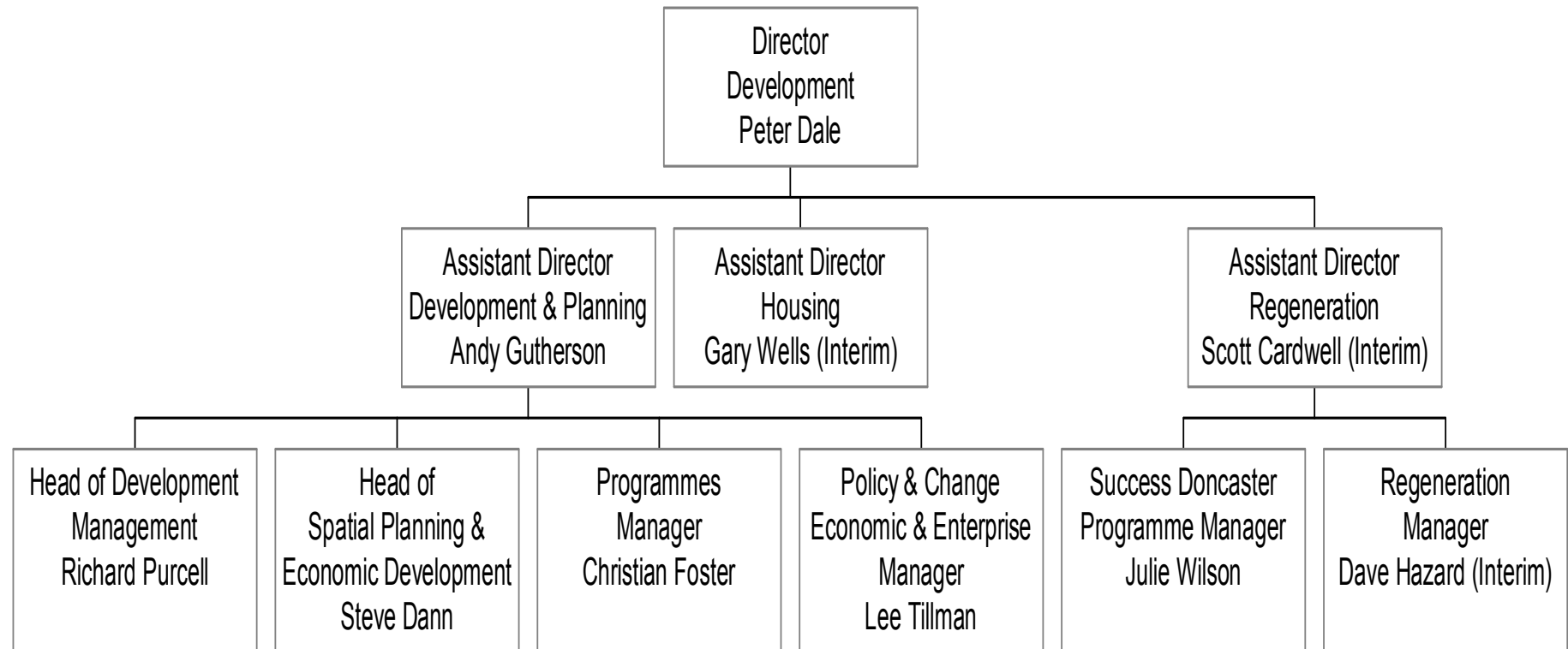
Adults Services



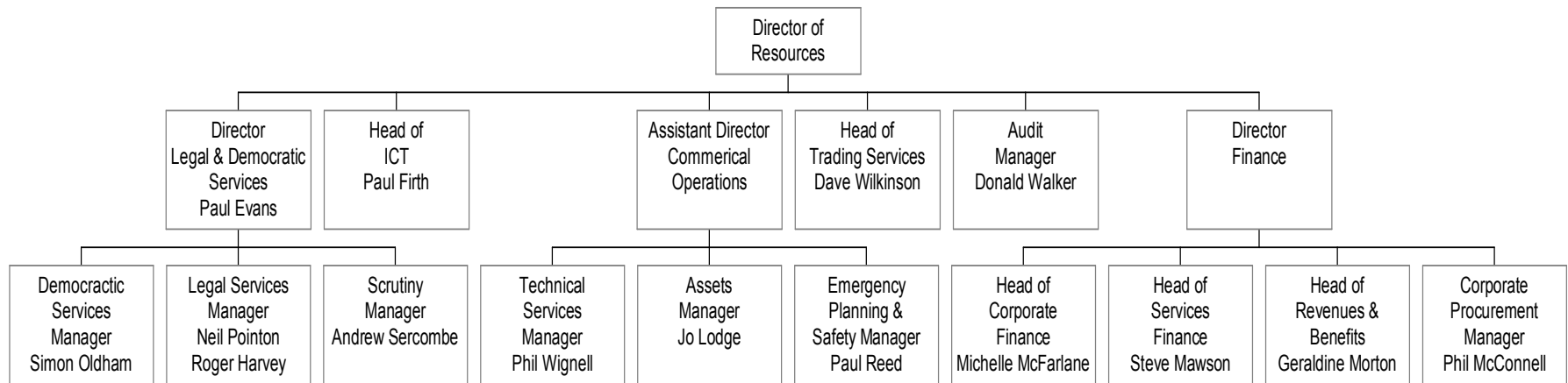
Neighbourhoods & Communities



Development



Resources



People & Performance Improvement

