

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Councillor Colin Johnson – Executive Member for Governance and Customer
Councillor Malcolm Chandler – Deputy Leader

To: Council 17 January 2018

(Author: Sarah Wolstenholme-Smy – Legal Services Manager)

Subject: Memorandum of Agreement between South Holland District Council and Breckland Council

Purpose: To review the Memorandum of Agreement between South Holland District Council and Breckland Council

Recommendation(s):

- 1) That the Memorandum of Agreement attached at Appendix 1 to this report and as amended be approved and adopted
- 2) That the Terms of Reference of the Joint Appointments and Disciplinary Committee be amended by:
 - a) reducing the membership from the current eight members (four from each council) to six members (three from each council).
 - b) appointing a pool of six substitutes (three from each council)
 - c) amending the quorum to be six members

1.0 BACKGROUND

- 1.1 On 1 April 2011, South Holland District Council and Breckland District Council entered into a Memorandum of Agreement. That document sets out the purpose and aims of the shared management arrangements and the terms on which the Councils have agreed to operate the arrangements.
- 1.2 A review of the Agreement took place at the end of 2014 and was subsequently varied on 9 January 2015.
- 1.3 There have been a number of staffing structure changes since the original Memorandum of Agreement was completed in April 2011 and subsequently varied in January 2015. In some service areas (examples being the Corporate Improvement and Performance Team and the Legal Team) it has been recognised that there can be benefits to sharing posts that are not part of the senior management structure. A key amendment to the Agreement is in recognition of this.
- 1.4 Historically, the Agreement has included appendices showing the current senior management structure and also the terms of reference of two joint committees. These inevitably become out-of-date, and it is therefore proposed that these in future be hyperlinked rather than set out in full in the Agreement.
- 1.5 Statutory references have been updated where appropriate.

- 1.6 A number of other minor amendments have been made to clarify wording. In addition, a new clause has been added to ensure that there is clarity over insurance arrangements.
- 1.7 Some amendments have been made to the Terms of Reference of the Joint Strategy Board. These are mainly points of clarification, but also reflect the current practice under which Joint Strategy Board normally meet annually, with Leaders and Deputy Leaders normally meeting at least once between meetings of the Joint Strategy Board.
- 1.8 One area that has in the past been difficult to manage is the role of the Joint Appointments and Disciplinary Committee in the appointment of Chief Officers or Deputy Chief Officers. The constitutions of the councils provide that this is a formal committee and each Council appoints four members in accordance with political balance rules (for South Holland, three Conservative group members and one Independent group member). Convening meetings can become complicated because the Councils are also keen to ensure that there are an equal number of members from each Council present at such meetings when the committee is involved in recruitment. If one Council receives apologies from some of its members, it means that there is a need to adjust the attendance from the other council – whilst bearing in mind the need for political proportionality. It is therefore recommended that the size of the committee is reduced to six members (three from each council and still politically balanced) with a pool of six substitutes and the quorum being all six members.
- 1.9 The purpose of the proposed change is to ensure that, when convened, all three members are able to attend – or if any member is unable to attend, a substitute will be available. This will overcome the difficulty of trying to maintain a balance across the two councils when convening meetings. The change will result in the loss of one Conservative Group seat and the need to appoint two Conservative Group substitutes and one Independent Group substitute.

2.0 **OPTIONS**

- 2.1 Option 1 - To approve in full the updated Memorandum of Agreement as detailed in Appendix 1 to this report.
- 2.2 Option 2 - To approve in part some of the recommended amendments to the Memorandum of Agreement.
- 2.3 Option 3 - Not to approve any updates to the Memorandum of Agreement.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 The Memorandum of Agreement sets out the legal basis of the shared management arrangements. It is important that the Agreement remains robust and reflects the current operation of all shared staff and the shared management structure as amended from time to time.
- 3.2 The Memorandum of Agreement is reviewed every two years, and the current review is now due. The proposed changes were considered by the Cabinet at its meeting on 21 November, which supported the proposals and recommended them to Council for adoption.
- 3.3 Approving the proposed amendments will bring greater certainty as to the parties' respective rights and liabilities. Ensuring that the terms of the Agreement are certain will minimise risk to the parties.

4.0 **EXPECTED BENEFITS**

4.1 The revisions to the Memorandum of Agreement keep the Agreement relevant and legally robust. The Agreement will be sealed shortly after both Councils have approved the document (2 November 2017 at Breckland Council and 17 January 2018 at South Holland District Council).

5.0 **IMPLICATIONS**

5.1 **Carbon Footprint / Environmental Issues**

5.1.1 The carbon footprint and environmental implications of this report have been considered and it is the opinion of the report writer that there are none.

5.2 **Constitution & Legal**

5.2.1 The operation of the shared management structure is underpinned by a legal contractual relationship. It is in the interests of both parties to express their agreement in a formal written contract as this brings a greater degree of certainty to the arrangements. The Agreement requires Council approval at both authorities.

5.3 **Contracts**

5.3.1 The Memorandum of Agreement is a legally enforceable contract which sets out the various rights and liabilities of the parties.

5.4 **Corporate Priorities**

5.4.1 The Agreement underpins the shared management team which in turn helps the Council to achieve its corporate priorities.

5.5 **Crime and Disorder**

5.5.1 The Section 17 and Crime and Disorder implications of this report have been considered and it is the opinion of the report writer that there are none.

5.6 **Equality and Diversity / Human Rights**

5.6.1 The Equality and Diversity implications of this report have been considered and it is the opinion of the report writer that there are none.

5.7 **Financial**

5.7.1 There are no financial costs directly associated with the recommendations of this report.

5.8 **Health & Wellbeing**

5.8.1 The health and wellbeing implications of this report have been considered and it is the opinion of the report writer that there are none.

5.9 **Risk Management**

5.9.1 The recommendations reduce risk to both authorities, by ensuring that the terms agreed are recorded accurately in writing and are kept up-to-date.

5.10 **Staffing**

5.10.1 The nature of this report impacts on staffing as it underpins the arrangements for shared management across both Councils.

5.11 **Stakeholders / Consultation / Timescales**

5.11.1 Both Councils are stakeholders.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All Wards.

7.0 **ACRONYMS**

7.1 None.

Background papers:- none

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Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service

Appendices attached to this report:

1. copy of revised Memorandum of Agreement