

Minutes of a meeting of the **SOUTH HOLLAND DISTRICT COUNCIL** held in line with the Local Authorities & Police & Crime Panels (Coronavirus) (Flexibility of Local Authority & Police & Crime Panel Meetings) (England & Wales) Regulations 2020, on Wednesday, 28 April 2021 at 6.30 pm.

PRESENT

F Biggadike (Chairman)
P A Redgate (Vice-Chairman)

B Alcock	R Grocock	M D Seymour
J R Astill	M Hasan	S-A Slade
J Avery	J L King	E J Sneath
A C Beal	C J Lawton	G J Taylor
C J T H Brewis	J D McLean	A C Tennant
T A Carter	A M Newton	J Tyrrell
A Casson	N H Pepper	S C Walsh
P E Coupland	G A Porter	D J Wilkinson
A C Cronin	J L Reynolds	A R Woolf
R Gambba-Jones	G T D Rudkin	C N Worth
R A Gibson	G P Scalese	

Apologies for absence were received from or on behalf of Councillors H J W Bingham and M D Booth,

In Attendance: The Head of Paid Service and Strategic Advisor, the Executive Director- Commercialisation (S151), the Executive Manager – Governance, the Democratic Services Manager and the Democratic Services Team Leader.

97. DECLARATION OF INTERESTS.

There were none.

98. CONSTITUTION AND OTHER MATTERS

Consideration was given to the report of the Deputy Leader of the Council and Portfolio Holder – People, Places and Corporate, and the Executive Manager – Governance (Deputy Monitoring Officer) which asked Council to consider the following:

- (a) Variations to the Constitution relating to
- (i) the Council's decision to bring the shared management arrangements between South Holland District Council and Breckland District Council to an end;
 - (ii) virtual meetings;
 - (iii) delegation arrangements for determining planning applications;

Action By

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- (iv) future structure reviews;
- (v) special Council meetings;
- (vi) Standing Order no. 29;
- (vii) independent persons;
- (viii) Full Council terms of reference; and
- (ix) Public Sector Partnership Services Limited amendments; and

(b) the designation of Statutory Officers and Proper Officers.

The Executive Manager – Governance suggested that the following additional wording be added to the end of the first bullet point at recommendation 3 – *‘or he ceases to be the Strategic Advisor, whichever is the sooner’*.

Members considered the information, and the following issues were raised:

- With regard to virtual meetings, the Executive Manager Governance reported that the High Court had, that day, given its judgement that, in the absence of primary legislation, virtual meetings could not continue after 6 May 2021. Representative bodies including Lawyers in Local Government and the Association of Democratic Services Officers were lobbying government to legislate for the continuation of remote meetings. In these circumstances, the report proposed that the constitutional provisions made for remote meetings be retained until there was clarity on whether virtual meetings could continue in the future.
 - The Leader responded that he had no concerns with regard to leaving the proposed changes within the Constitution, however, any change with regard to the future of virtual meetings was unlikely to happen soon. Primary legislation was required for this to happen, and there was currently no time scheduled within the parliamentary timetable for this. The Government were currently consulting with the sector to gain their feedback on the way forward.
- Paragraphs 5.8 - 5.10 within the report referred to Part 3 of the Constitution (Full Council terms of reference), and the fact that points (e) and (f) within the Constitution were not correct and were, in fact, Cabinet functions. Paragraph 5.10 stated that it was possible for issues referred to at (e) and (f) to go through a process of consultation with Full Council – members commented that this should be as a matter of course, rather than discretionary.

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- Officers responded that the Council had a Policy Framework, and that the Policy Framework could be amended to reflect a situation where the scope of a service was to change significantly or where a scheme or a proposal would affect the district as a whole. A report could be brought to a future meeting to consider this further.
- Members noted that SHDC was retaining the services of the Strategic Advisor, who was also currently designated as the Head of Paid Service. The cost for two days per week had previously been shared between South Holland District Council and Breckland Council. The two authorities were shortly due to end their partnership – what was the cost to South Holland, what proportion of work was undertaken within the role of Head of Paid Service, and what qualifications were needed to fulfil the role of Head of Paid Service?
 - The Head of Paid Service and Strategic Advisor advised that he could share information on the time allocation of work undertaken since October, detailing the proportion of time spent undertaking the Head of Paid Service role. He also confirmed that the original contract between SHDC and Breckland Council had been for 2 days per week, and that this contract would end on 30 April 2021. In its place at SHDC, he would cover the statutory role of Head of Paid Service, and undertake work on preferred partner choices for the authority. This would be for an equivalent of 2 days per week, which was flexible.
 - The Leader stated that the dissolution of the SHDC/Breckland partnership had been delivered on time and within budget. Some of the work that had been undertaken on that project would assist in identifying what was required from any new partnership. Although it was a requirement for the authority to have a Head of Paid Service, the majority of work to be undertaken by the officer related to prospective future partnership arrangements.
 - In response to what qualifications were required for the role of Head of Paid Service, members were advised that no professional qualification was needed however, suitable knowledge and experience was essential.
- Members commented that it would be difficult to make a decision on recommendation 3 without knowing details of the cost to the Council.

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- The Leader advised that the cost would be within the scope of costs agreed to date. If members wished to discuss this in more detail, it would be necessary to do this in exempt session, due to the consideration of personal financial information.
- Members responded that it was important that Councillors were aware of the figures involved as the cost would now be met by only SHDC. It was a financial commitment and it was important to be aware of how long this was anticipated to last. Discussion of the information within closed session was therefore needed.
 - The Leader responded that it was anticipated that the interim arrangements would operate for no longer than four weeks, and that the cost of this had been included within the original contract. If, at the end of this period, a new partner had not been found, a further report would be brought to Council as certain decisions would be needed, including consideration of the appointment of a temporary Chief Executive.

As members wished to discuss exempt information, the Executive Manager – Governance suggested that members vote on all recommendations, with the exception of those at recommendation 3. The meeting would then go into exempt session to discuss the relevant information after which the meeting would then move back into open session to vote on the recommendations at item 3. This approach was agreed by members.

A roll-call vote was undertaken on all recommendations, with the exception of recommendation 3. There were 34 votes for the recommendations, with no votes against and no absentions.

DECISION:

That the following variations to the Constitution be approved:

Variations arising from the decision to bring the shared management arrangements between South Holland District Council and Breckland District Council to an end:

(1) That, following the decision by Full Council at its meeting on 24 February 2021 to terminate the Memorandum of Agreement entered into by South Holland District Council and Breckland District Council and to approve an interim staffing structure, the Constitution be amended as follows with effect from 1 May 2021:

- (a) reference to the Council's joint arrangements with Breckland District Council be removed as detailed in

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Appendices A and B to the report; and

(b) a new joint Committee, called the "Shared Memorandum of Agreement Committee" be appointed in order to deal with any disputes submitted to it in accordance with sections 8 (termination and review of joint arrangements) or 11 (dispute resolution) of the Memorandum of Agreement dated 1 April 2011, with terms of reference as detailed in Appendix C to this report, and the Constitution be further amended to take this into account, as also shown in Appendix C; and

(c) the terms of reference of the Appeals Panel be amended as shown in Appendix D to the report; and

(2) That, until such time as the Council appoints a further independent person for the purposes of attending any committee that considers the proposed dismissal of the Head of the Paid Service, Monitoring Officer, or the Section 151 Officer, the Council continues to use the independent person appointed by Breckland District Council, as reflected in Appendix B to the report; and

(3) (Note – recommendation 3 of the report dealt with at minute 100 below);

(4) That the existing Proper Officer appointments be amended as shown in the final column of the table at Appendix E; and

(5) The reference to "Senior Legal Officer" in the Glossary of Terms (Definitions Relating to Staff) be amended to refer to the Assistant Director Governance; and

(6) That the Strategic Finance and Compliance Manager be appointed as the Senior Information Risk Officer and paragraph 6.3 of Part 3 Section F3 of the Constitution be amended accordingly; and

(7) That:

(a) the Heading to Part 3 Section F4 of the Constitution be amended to read as follows:

Delegations to Senior Legal Officer, Solicitor to the Council and the Service Manager responsible for legal services.

(b) the Heading to Part 3 Section F5 of the Constitution be amended to read as follows:

Delegations to the Assistant Director responsible for

strategic growth

Issues Arising from Covid

(8) That the amendments to the Council's Standing Orders and Access to Information Procedure Rules, approved by Full Council at its meeting on 13 May 2020 to allow virtual meetings to be held, remain within the Constitution unless and until (if applicable) the law is clear that virtual meetings can no longer lawfully be held, at which time the Senior Legal Officer be authorised to remove such amendments from the Constitution (with the exception of Standing Order 14.1 the amendment to which will remain) without the need for a further report; and

(9) That the temporary delegation arrangements for determining planning applications approved at Full Council on 13 May 2020 and extended by Council on 25 November 2020 be further extended to apply until the Council meeting to be held on 24 November 2021 (or the next Council meeting after that date if that meeting is, for any reason, cancelled) subject to the amendments shown in Appendix F to the report; and

Future Structure Reviews

(10) That, with a view to reducing the necessity for multiple Constitutional amendments following any future structure reviews, the Constitution be amended as follows:

(a) the amendments shown in Appendix G be approved in order to clarify when officers can make minor changes to the Constitution which are essentially administrative; and

(b) statutory officer references at paragraph 1.4 of Article 11 of the Constitution be amended in accordance with the details included in Appendix H to the report; and

(c) the following generic definitions be added to the Glossary of Terms (Definitions Relating to Staff) :

- "Directors" means tier 2 officers (immediately below the post of Chief Executive, whether or not a Chief Executive is actually in post). Currently the Executive Directors.
- "Assistant Directors" means tier 3 officers (immediately below the Directors). Currently the Assistant Directors.
- "Service Managers" means tier 4 officers (immediately

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below the Assistant Directors) who manage each service unit. Currently the Service Managers.

(d) all references to "Executive Directors(s)" within the Constitution be amended to read "Director(s)"; and

(e) all references to "Executive Manager(s)" within the Constitution be amended to read "Assistant Director(s)"; and

(f) all references to "Senior Managers" within the Constitution be amended to read "Service Manager(s)"; and

(11) That, for clarification, the following definitions be added to the Glossary of Terms (Definitions Relating to Staff):

- "Electoral Registration Officer" means the officer appointed under section 8 of the Representation of the People Act 1983. The Electoral Registration Officer is currently Christine Marshall - Executive Director Strategy and Resources.
- "Returning Officer" means the officer appointed under section 35 of the Representation of the People Act 1983. The Electoral Registration Officer is currently Christine Marshall - Executive Director Strategy and Resources.

(12) That Rule 2.2.1 (j) of the Contract Procedure Rules be amended to refer to the Senior Legal Officer in place of the Executive Manager Governance; and

Other Proposed Amendments to the Constitution

(13) That the Constitution be amended to clarify the four types of Full Council meetings in accordance with the details shown at Appendix I of the report; and

(14) That Standing Order No. 29 (conflict between Council and Executive) be deleted as the issue is repeated more fully in Standing Order no. 63 and 64, and that Standing Order no. 29A be renumbered No. 29; and

(15) That statutory Standing Order no. 60A relating to independent persons be added, and the terms of reference of the Appointments and Disciplinary Committee be amended so as to refer to Standing Order no. 60A, as detailed in Appendix J; and

(16) That paragraphs (e) and (f) of term of reference number 3 of the Full Council at Part 3 of the Constitution be deleted; and

(17) That the Constitution be amended as shown in Appendix K following the extension of the partnership arrangements which comprises Public Sector Partnership Services Limited to include Boston Borough Council.

99. EXCLUSION OF THE PRESS AND PUBLIC

DECISION:

Under section 100A (4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1 and 3 of part 1 of Schedule 12A of the Act.

100. CONSTITUTION AND OTHER MATTERS

With regard to the Strategic Advisor and Head of Paid Service, members were provided with information regarding the contractual and financial position relating to the Strategic Advisor/Head of Paid Service.

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To date, there had been no requirement to undertake any work specifically in his capacity as Head of Paid Service. It was noted that this was a statutory role and an appointment to this position was therefore required. The work undertaken over the last few months had been within the role as Strategic Advisor.

(The meeting returned to open session at this juncture).

DECISION:

That the following variation to the Constitution be approved:

(3) That the following statutory designations be formally made to apply with effect from 1 May 2021:

- Head of Paid Service – Nathan Elvery (on an interim basis until such time as the Council designates or appoints a permanent Head of Service, or he ceases to be the Strategic Advisor, whichever is the sooner)
- Monitoring Officer - Mark Stinson - Assistant Director Governance
- Section 151 Officer - Christine Marshall - Executive Director Strategy and Resources

and the Glossary of Terms (Definitions Relating to Staff) be

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amended accordingly.

(The meeting ended at 7.15 pm)

(End of minutes)