

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Deputy Chief Executive (Corporate Development) & S151

**To:** The Leader of the Council

**(Author:** Rhonda Booth - Democratic Services Manager)

**Subject:** Officer Delegations - executive functions and Indemnity

**Purpose:** To consider officer delegations and indemnity cover

### **Recommendation(s):**

- 1) That all officers employed by South Holland District Council, East Lindsey District Council or Boston Borough Council, who are shared pursuant to the s113 Agreement between those Councils, be granted or re-granted delegated authority to act as officers of South Holland District Council in relation to any executive functions in accordance with the Constitution and the schedule of specific delegations and the Monitoring Officer be authorised to make such amendments to post titles and areas of responsibility set out in those documents as the Monitoring Officer considers appropriate.
- 2) That subject to consultation with the Council's Insurers, an indemnity be provided to officer and members in relation to executive functions in accordance with, (or materially in accordance with) Appendix A to this report

### **1.0 BACKGROUND**

- 1.1 At its meeting on 29<sup>th</sup> July 2021, full Council approved the business case for and entry into the South and East Lincolnshire Councils Partnership. This report sets out some amendments to executive delegations that are needed to further implement the decision.
- 1.2 Shared Officers are, in law, employed by only one of the three councils, but are designated as officers of all three councils. As such, existing delegations will need to be amended to reflect changes in post titles, changes in areas of responsibility and the fact that employees of one council will be carrying out delegated executive functions under the constitutions of the other two councils. It is therefore proposed that this Leader decision agrees to amend the delegations to reflect the new management structure and authorises the Monitoring Officer to amend the Constitution and the schedule of specific delegations accordingly to reflect this and to reflect new post titles and areas of responsibility. At a meeting of the full Council on 22 September, a similar recommendation was agreed in relation to non-executive decisions.
- 1.3 Legal advice, commissioned as part of the work on the Memorandum of Agreement, recommended that (subject to the agreement of the Council's insurers) each Council should provide an indemnity to its officers and members against any costs, claims and expenses arising as a result of the strategic partnership. The indemnity protects officers and members where they have acted reasonably (so would not protect an officer or a member who had acted fraudulently, recklessly or criminally). A form of indemnity, as drafted by Eversheds, is enclosed at Appendix A to this report. Full Council at its meeting on 22 September approved this indemnity in relation to non-executive functions and this report seeks approval of the indemnity in relation to executive functions.

## 2.0 **OPTIONS**

- 2.1 Do nothing - this is not recommended as a failure to have suitable delegations in place will leave the Council at risk of legal challenge and failure to have suitable indemnity in place could put members and officers at personal risk.
- 2.2 Adopt the proposed recommendations.

## 3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 To enable a swift and legally compliant implementation of the South and East Lincolnshire Councils Partnership.

## 4.0 **EXPECTED BENEFITS**

- 4.1 Having appropriate delegations in place will enable the Senior Leadership Team to operate in accordance with the business plan approved by members and an appropriate indemnity will protect officers and members from personal liability (except in the limited circumstances set out in paragraph 1.2 above and Appendix A (attached)).

## 5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

### 5.2 **Constitution & Legal**

- 5.2.1 Delegations to officers of executive functions are in accordance with Sections 9E of the Local Government Act 2000.
- 5.2.2 The provision of indemnities to officers and members are in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004.

### 5.4 **Corporate Priorities**

- 5.4.1 The changes proposed in this report are designed to enable successful delivery of the South and East Lincolnshire Councils Partnership.

### 5.7 **Financial**

- 5.8.2 There may be some additional insurance costs as the result of the proposed indemnity.

### 5.9 **Risk Management**

- 5.11.1 Amendment to delegations will help to mitigate the risk of subsequent legal challenge. The use of an indemnity will mitigate the risks to officers and members personally.

## 6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 The South and East Lincolnshire Strategic Partnership will deliver services across all wards and communities in the Council's area and across the areas of the other two councils.

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**Background papers:-**

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service and Discretionary Service**

**Appendices attached to this report:**

Appendix A Proposed officer/member indemnity