

HAMBLETON DISTRICT COUNCIL

Report To: Annual Council
13 May 2014

From: Chief Executive

Subject: MANAGEMENT RESTRUCTURE – AMENDMENTS TO CONSTITUTION

1.0 PURPOSE AND BACKGROUND:

- 1.1 The Council's Constitution sets out the role of various Officers of the Council. Following the recent management restructure there is a need to designate new posts as Section 151 Officer and Monitoring Officer and to authorise Officers to deal with certain official documents. There is also a need to make certain consequential amendments to the Constitution to reflect the management changes.
- 1.2 This report asks Council to make the necessary changes.

2.0 APPOINTMENT OF SECTION 151 OFFICER AND MONITORING OFFICER:

- 2.1 The Council is required to appoint a Section 151 Officer and a Monitoring Officer. This is reflected in Article 11 of the Constitution. A summary of the roles is attached in the extract from Article 11 which is attached as an Annex to this report.
- 2.2 It is recommended that the Director of Support Services be designated as the Council's Section 151 Officer and the Head of Legal and Information Services be designated as the Monitoring Officer. Each of those Officers may appoint a deputy from time to time.

3.0 OTHER AMENDMENTS TO THE CONSTITUTION:

- 3.1 Article 14 of the Constitution provides for the authentication of documents and the witnessing of sealing of documents. It is recommended that the Head of Legal and Information Services be authorised to do this and authorise others to do the same.
- 3.2 Other minor and consequential amendments to the Constitution may be required as a result of changes in designation following the management restructure. It is recommended that the Chief Executive be authorised to make the necessary changes.

4.0 LEGAL IMPLICATIONS:

- 4.1 It is a legal requirement to appoint a Section 151 Officer and a Monitoring Officer.

5.0 FINANCIAL IMPLICATIONS:

- 5.1 None.

6.0 RECOMMENDATIONS:

6.1 It is recommended that:-

- (1) the Director of Support Services be designated as the Council's Section 151 Officer;
- (2) the Head of Legal and Information Services be designated as the Council's Monitoring Officer;
- (3) the Head of Legal and Information Services be authorised to authenticate documents and attest the sealing of documents and authorise others to do the same;
- (4) the Chief Executive be authorised to make any minor or consequential amendments to the Constitution required by the management restructure.

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Background papers: None

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EXTRACT FROM ARTICLE 11 OF THE CONSTITUTION

11.03 Functions of the Monitoring Officer

- a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and public.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the Audit, Governance and Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit, Governance and Standards Committee.
- d) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Audit, Governance and Standards Committee or its Standards Hearings Panel and make reports or recommendations in respect of them.
- e) **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f) **Advising whether Executive decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- h) **Restrictions on posts.** The Monitoring Officer cannot be the Director of Resources or the Head of Paid Service.
- i) **Appointing a deputy.** The Council will from time to time appoint a Deputy Monitoring Officer who will carry out the functions of the Monitoring Officer in his/her absence.

11.04 Functions of the Section 151 Officer

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b) **Administration of financial affairs.** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- c) **Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

- d) **Providing advice.** The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- e) **Give financial information.** The Section 151 Officer will provide financial information to the media, members of the public and the community.