

## BRECKLAND DISTRICT COUNCIL

**Report of:** Executive Director, Place

**To:** Council – 9 December 2014

**(Author:** Mark Stinson – Legal Services Co-ordinator)

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

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

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

It is recommended to Council

- 1) That the Memorandum of Agreement attached at Appendix 1 to this report and as amended be approved; and
- 2) That the shared management costs/savings at Appendix 2 be noted.

### **1.0 BACKGROUND**

- 1.1 On 1 April 2011, South Holland District Council and Breckland 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 The Memorandum of Agreement contains a provision obliging the two councils to conduct a review of the Agreement by the second anniversary of the date that the shared management arrangements became effective. The review is now overdue and a proposed revised Agreement is therefore brought to members for approval.
- 1.3 The Agreement also requires (at clause 7.2) the s151 Officer to report on the expenses of the shared management team annually. The shared management costs/savings are therefore detailed at Appendix 2.
- 1.4 There have been a number of staffing changes since the original Memorandum of Agreement was completed in April 2011, including a change of Chief Executive. The senior management structure has subsequently changed, and a revised structure chart is therefore incorporated in the Agreement (at Schedule 4 to the revised Memorandum of Agreement).
- 1.5 There have been a number of amendments to the Memorandum of Agreement, though many of these are relatively minor. The more significant amendments comprise:
  - strengthened definition of Intellectual Property Rights
  - establishment of the new Joint Strategy Board, together with terms of reference
  - amendment to the terms of reference for the Joint Appointments Committee to enable the Committee to arbitrate in the event of a disagreement between the Councils
  - definition of Shared Management Structure extended to reflect the fact that not all shared posts are managers

- addition of 'key principles' (such as trust, co-operation, and respect for confidentiality) which each Council agrees to adopt. The Councils are also obliged to pass these obligations on to contractors.
- all new appointments to shared posts to be on Breckland District Council's establishment
- clarification that redundancy and other staffing costs (in respect of shared posts) are to be shared between the Councils whenever they occur. The original Agreement could have been read as though such costs were only to be shared at the time that the shared management structure was introduced.
- enabling the parties to agree to posts being shared unequally (e.g. 60:40 rather than 50:50)
- dispute resolution now starts with the Joint Strategy Board

## 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 the shared management structure.
- 3.2 The Memorandum of Agreement is past its due date for review.
- 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 (9 December 2014 at Breckland Council and 17 December 2014 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 The implications of this report have been considered and it is the opinion of the report writer that there are none.

## 6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All Wards.

## 7.0 **ACRONYMS**

7.1 None.

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Background papers:- None

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**Director / Officer who will be attending the Meeting**

Name and Post: Mark Stinson, Legal Services Co-ordinator

**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**

**Appendices attached to this report:**

1. Clean copy of revised Memorandum of Agreement
2. Shared management costs/savings