

## BRECKLAND DISTRICT COUNCIL

- Report of:** Councillor Sarah Suggitt, Executive Member, Governance and Maxine O'Mahony, Executive Director Strategy and Governance/Monitoring officer
- To:** Council - 8 April 2021
- Author:** Jacqui Berridge - Lawyer  
Sarah Wolstenholme-Smy - Legal Services Manager
- Subject:** Constitutional amendments following the Council's decision to activate clause 8 of the Memorandum of Agreement between Breckland District Council and South Holland District Council and the associated designation of Statutory Officers; and the appointment of Proper Officers, and Virtual Meetings
- Purpose:** To consider (i) variations to the Constitution arising from the Council's decision to activate clause 8 of the Memorandum of Agreement between Breckland District Council and South Holland District Council; (ii) the designation of Statutory Officers arising from the associated restructure; (iii) the appointment of Proper Officers arising from the associated restructure; and (iv) virtual meetings

### **Recommendations:**

(1) That, following the decision by full Council at its meeting on 25 February 2021 to terminate the Memorandum of Agreement entered into by Breckland District Council and South Holland District Council and to approve an interim structure, the Constitution be amended as follows on the date that such termination takes effect:

(a) reference to the Council's joint arrangements with South Holland District Council be removed as detailed in Appendices A and B to this report; and

(b) a new 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 Service Manager for legal services be identified as the Senior Legal Officer within the glossary of terms; and

(2) That, until such time as it is possible for the Council to appoint 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 continue to use the independent person appointed by South Holland District Council, as reflected in Appendix B to this report; and

(3) That the following statutory designations be formally made to apply with effect from the date of termination of the existing shared arrangements:

- Head of Paid Service
- Monitoring Officer
- Section 151 Officer

and the glossary of terms (relating to staff) be amended accordingly; and

*(NOTE: details of the officers recommended for designation will be detailed on an addendum to this report to be issued after 31 March 2021 - paragraph 3.4 refers)*

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

(5) That Rule 6.2.1 (j) of the Contract Procedure Rules be amended to refer to the Senior Legal Officer in place of the Executive Manager Governance; and

(6) That, with the exception of Standing Order no. 14.1 which will remain, the amendments to the Council's Standing Orders and Access to Information Procedure Rules approved by full Council at its meeting on 22 July 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 without the need for a further report.

## 1.0 BACKGROUND

1.1 The full Council at its meeting on 25 February 2021 agreed to activate clause 8 of the Memorandum of Agreement entered into by Breckland District Council and South Holland District Council on 1 April 2011, which will end the relationship between the two authorities. The Council also approved a proposed amended structure to apply following termination of the shared arrangements. It is currently anticipated that the shared arrangements will officially terminate on 1 May 2021.

1.2 This report seeks full Council approval for:

- a number of variations to the Constitution arising from the Council's decision to activate clause 8 of the Memorandum of Agreement;
- the appointment of statutory officers and proper officers, which will take effect on the date of termination of the existing shared arrangements; and
- other issues arising from the decision.

1.3 In addition, it is necessary to consider existing amendments which were made to the Constitution to enable virtual meetings to be held.

## 2.0 PROPOSED VARIATIONS TO THE CONSTITUTION ARISING FROM DECISION TO ACTIVATE CLAUSE 8

### References to Joint Arrangements (Appendices A and B refer)

2.1 There are several references to the joint arrangements within the Constitution which need to be removed, as detailed in Appendix A to this report.

- 2.2 The terms of reference of the existing Joint Appointments and Disciplinary Committee, and the Joint Appointments and Disciplinary Appeals Committee also need to be amended so that they refer only to officers of Breckland Council, as detailed in Appendix B.

### **Independent Persons**

- 2.3 In accordance with the Local Authority (Standing Orders) (England) Regulations 2001 (as amended), at least 2 independent persons must be present at any committee that considers the proposed dismissal of the Head of the Paid Service, the Monitoring Officer and the Section 151 Officer. Independent persons must be appointed in accordance with the following priority order:
- A person who has been appointed by the Council and who is a local government elector
  - Any other person who has been appointed by the Council
  - A person who has been appointed by another authority or authorities
- 2.4 As part of the shared arrangements, Breckland District Council and South Holland District Council agreed that the 2 independent persons should comprise, where possible, 1 independent person appointed by SHDC and 1 independent person appointed by Breckland DC. Each Council therefore currently has only has 1 appointed independent person.
- 2.5 Until such time as it is possible for the Council to appoint a further independent person it is recommended that each Council continues to use the independent person appointed by the other Council. South Holland District Council will consider this issue at its next meeting on 21 April. This arrangement is reflected in Appendix B.

### **Memorandum of Agreement - Disputes**

- 2.6 One of the terms of reference of the existing Joint Appointments and Disciplinary Committee is to consider and report to each Council on any disputes submitted to it in accordance with section 8 (termination and review of joint arrangements) or section 11 (dispute resolution) of the Memorandum of Agreement dated 1 April 2011. It will be necessary to retain reference to this mechanism until such time as the Agreement is beyond the point of challenge.
- 2.7 For this purpose it is proposed to appoint a separate Committee, called the "Shared Memorandum of Agreement Committee", which will have only one term of reference, and which will automatically dissolve once all outstanding matters have been dealt with, as detailed in Appendix C. Other amendments to the Constitution to take account of this proposal are also included at Appendix C.

### **3.0 APPOINTMENTS TO TAKE EFFECT UPON THE DATE OF TERMINATION OF THE EXISTING SHARED ARRANGEMENTS**

#### **Glossary of Terms - Senior Legal Officer**

- 3.1 The Constitution refers to the Senior Legal Officer in a number of places, and various delegations apply to this post. This Executive Manager - Governance is currently the Senior Legal Officer, but following the restructure it is suggested that this should be the Service Manager responsible for legal services. It is recommended that the glossary of terms be amended accordingly with effect from the date of termination of the existing shared arrangements.

## **Statutory Officers - Appointment of**

3.2 The full Council is required by law to designate one of their officers as:

- Head of the Paid Service (section 4 Local Government and Housing Act 1989)
- Monitoring Officer (section 5 Local Government and Housing Act 1989)
- Section 151 Officer (section 151 Local Government Act 1972).

3.3 In view of the proposed restructure it is recommended that each of the above designations be formally made to take effect from the date of termination of the existing shared arrangements. It is not possible to recommend specific officers to those posts until after the end of the staff consultation period. An addendum to this report will be issued after 31 March recommending the officers for designation.

## **Proper Officers (Appendix D refers)**

3.4 Many statutes and regulations refer to functions being carried out by the relevant "Proper Officer". Proper Officer appointments are made as follows:

- some appointments are specifically included within the Constitution
- under Part 3 Section F2 of the Constitution (delegations to the Chief Executive) the Chief Executive has delegated authority to appoint appropriate officer(s) to act as Proper Officers where necessary for functions which come within the jurisdiction of that officer, except that the Chief Executive does not have authority to appoint him or herself as a Proper Officer
- full Council has power to appoint Proper Officers for any purpose where such appointments have not been made by the Chief Executive under Part 3 Section F2.

3.5 The former Chief Executive appointed various Proper Officers on 19 March 2019. Following the resignation of the Chief Executive, the full Council at its meetings on 8 October and 5 November 2020 agreed to appoint the 3 Directors as Proper Officers for various functions under the Local Government Act 1972. All details are included at Appendix D.

3.6 It is now proposed to amend those appointments to take into account the proposed amended structure, but in such a way that further amendments should not be necessary if the establishment is amended again at any later date. It is therefore recommended that the amended Proper Officer appointments detailed in the final column of Appendix D be approved.

## **4.0 OTHER ISSUES ARISING FROM THE DECISION TO ACTIVATE CLAUSE 8**

### **Contract Procedure Rule 2.2.1**

4.3 Rule 6.2.1 (j) of the Contract Procedure Rules currently states that Chief Officers/Deputy Chief Officers will "ensure original contract documents are forwarded to the Shared Executive Manager Governance for safekeeping."

4.4 In order to "future proof" the Constitution this should refer to the Senior Legal Officer and it is recommended that the Rule be amended accordingly.

## **5.0 VIRTUAL MEETINGS**

5.1 Full Council at its meeting on 22 July 2020 agreed a number of amendments to the Council's Standing Orders and Access to Information Procedure Rules to allow virtual meetings to be held. The amendments (with the exception of the amendment to Standing Order no. 14.1 - disturbance by member of the public - which will remain) were approved to apply up to, but not including 7 May 2021 (being the date on which the virtual meeting regulations expired), or such longer period as the law allowed virtual meetings to be held, the amendments then to be removed from the Constitution without a further report.

5.2 At the time of writing this report the situation regarding virtual meetings is as follows:

- whilst virtual meetings have been held courtesy of regulations, the Government considers that primary legislation will be required to enable virtual meetings to be held on and after 7 May 2021, and that there is insufficient time to do this;
- an application has been made to the High Court by the Association of Democratic Services and Lawyers in Local Government for a declaration that existing legislation can be used to regularise the situation to allow virtual meetings to continue. It is not currently known when the High Court's determination will be made.

5.3 In any event, it appears unlikely that the existing regulations will be extended, and it is therefore necessary to revisit the previous decision.

5.4 It is recommended that the amendments to the Council's Standing Orders and Access to Information Procedure Rules remain within the Constitution unless and until (if applicable) such time as the law is clear that virtual meetings can no longer lawfully be held, at which time the Senior Legal Officer be authorised to remove from the Constitution the amendments approved by full Council on 22 July 2020 (with the exception of Standing Order no. 14.1). This will then allow the existing amendments to be used as and when the law permits.

## 6.0 **OPTIONS**

6.1 Members have the option to approve or not approve the appointments and variations, or to require alternative appointments and variations.

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

7.1 It is necessary to:

- amend the Constitution to take account of the Council's decision to end the relationship between Breckland Council and South Holland District Council;
- ensure that statutory designations are formally made to apply with effect from the date of termination of the existing shared arrangements; and
- revisit the previous decision which permitted amendments to be made to the Constitution to allow virtual meetings to be held.

## 8.0 **EXPECTED BENEFITS**

8.1 The Constitution will be fit for purpose following termination of the shared arrangements, and in the light of current legal situation regarding virtual meetings.

## 9.0 **IMPLICATIONS**

9.1 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; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

### **Constitution & Legal**

9.1.1 Any legal implications are set out in the relevant paragraphs. Amending the Constitution is a function reserved to full Council.

### **10.0 WARDS/COMMUNITIES AFFECTED**

10.1 None

### **11.0 ACRONYMS**

11.1 There are acronyms in Appendix D which are explained at the end of that Appendix.

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Background papers:- The Council's Constitution which can be found online

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### **Lead Contact Officer**

Name and Post: Jacqui Berridge Lawyer  
Telephone Number  
Email: jacqui.berridge@breckland-sholland.gov.uk

**Key Decision:** N

**Exempt Decision:** N

### **This report refers to a Mandatory Service**

### **Appendices attached to this report:**

APPENDIX A Proposed amendments to the Constitution to remove reference to joint arrangements with South Holland District Council.

APPENDIX B Proposed amendments to the terms of reference of the Joint Committees

APPENDIX C Proposed Shared Memorandum of Agreement Committee and other proposed amendments to the Constitution relating to this Committee

APPENDIX D Proposed amended Proper Officer appointments

**APPENDIX A** - Proposed amendments to the Constitution to remove reference to joint arrangements with South Holland District Council.

Amendment 1

Article 10

1.2 The Council works with a number of other authorities, ~~including operating joint management arrangements with South Holland District Council,~~ and **operates** other joint arrangements in respect of the Anglia Revenues Partnership.

Amendment 2

Part 3 Section D - Delegations to Committees

~~1.2 The quorum of Joint Committees shall be 6, consisting of 3 members from Breckland Council and 3 from South Holland District Council. Members of the Joint Appointments and Disciplinary Committee cannot be appointed as members of the Joint Appointments and Disciplinary Appeals Committee.~~

Amendment 3

Reference to the word "joint" be deleted, and all references to both Councils be amended so as to refer to only one Council, in:

- Standing Order no. 32
- Standing Order no, 37.2
- Standing Order no. 40
- Standing Order no. 42.4(b)
- Standing Order no. 57 (see also below)
- Standing Order no. 60 (see also below)
- Standing Order no. 61 (see also below)
- All references to the Chief Executive, Chief Officers, Deputy Chief Officers, Executive Directors and Executive Managers

Amendment 4

STANDING ORDER NO. 38

38.1 The quorum of each Committee and Sub-Committee shall be three or one-third whichever is the greater, of the total number of its members not including non-voting ex-officio members or as otherwise specified in legislation or as specified below.

38.2 The quorum for meetings of the Cabinet shall be three.

~~38.3 The quorum of Joint Appointments and Disciplinary Committee and of Joint Appointments and Disciplinary Appeals Committee shall be 6, consisting of 3 members from Breckland Council and 3 from South Holland District Council.~~

STANDING ORDER NO. 57

~~In Standing Orders Nos. 57 to 61 "Councils" means both Breckland District Council and South Holland District Council~~

~~"Joint" means appointed jointly for both Breckland District Council and South Holland District Council.~~

#### STANDING ORDER NO. 58

~~See definitions at Standing Order No. 57.~~

58.1 Appointment of the *Joint* Head of the Paid Service is subject to approval by the full Councils following consideration of the recommendation of such an appointment by a *Joint* committee or sub-committee of the Councils. That committee or subcommittee must include at least one Cabinet Member. ~~of Breckland Council and at least one Cabinet Member of South Holland District Council.~~

58.2. The full Councils may only make or approve the appointment of the *Joint* Head of Paid Service where no material or well-founded objection has been made by any Cabinet Member ~~or Cabinets of the Councils~~ in accordance with current regulations.

#### STANDING ORDER NO. 59

~~See definitions at Standing Order No. 57.~~

Appointment of other *Joint* Chief Officers and Deputy Chief Officers

59.1 A *joint* committee or sub-committee of the Councils will appoint all other *Joint* Chief Officers and *Joint* Deputy Chief Officers. That *Joint* committee or sub-committee must include at least one Cabinet Member. ~~of Breckland District Council and at least one Cabinet Member of South Holland District Council~~

59.2 An offer of employment as a *Joint* Chief Officer or *Joint* Deputy Chief Officer shall only be made after notice of the proposed appointment has been circulated to all Cabinet Members ~~of Breckland District Council and all Cabinet Members of South Holland District Council~~ and where no material or well-founded objection from any Cabinet Member ~~or Cabinet~~ has been received in accordance with current regulations.

#### STANDING ORDER NO. 60

~~See definitions at Standing Order No. 57.~~

60.3.1 (c) The Councils must appoint the panel at least 20 working days before the ~~first of the two~~ Council meetings which consider whether or not to approve a proposal to dismiss.

60.3.2 Notice of dismissal may only be made where no material or well-founded objection from any Cabinet Member ~~of Breckland District Council or the Cabinet of South Holland District Council~~ has been received in accordance with current regulations.

#### STANDING ORDER NO. 61

~~See definitions at Standing Order No. 57.~~

61.2 Notice of dismissal may not be made until details of the proposed dismissal have been circulated to all Cabinet Members ~~of Breckland District Council and the Cabinet of South Holland District Council~~ and no well-founded objection from any Cabinet Member ~~or Cabinet~~ has been received in accordance with current regulations.

**APPENDIX B** - Proposed amendments to the terms of reference of the Joint Committees

NOTE: All references to "Councils" are amended to Council

Council body	Membership	Function/Terms of Reference
<p><i>Joint Appointments and Disciplinary Committee</i></p> <p><i>This Committee may also sit under Terms of Reference 2 and 3 in relation to "any other Chief Officer or Deputy Chief Officer" who is not jointly appointed subject to (i) the membership being restricted to the members of the appointing/ dismissing Council only; (ii) the quorum being amended to 3 including at least 1 Cabinet member; and (iii) all references to the Councils being deemed to refer to the appointing/ dismissing Council</i></p>	<p><del>6 Members</del> <b><u>(3 Members)</u></b></p> <p><del>(3 Breckland Members &amp; 3 South Holland Members</del> in accordance with Local Government (Committees and Political Groups) Regulations 1990)</p> <p><del>(Quorum 6 which must comprise 3 members from each authority including at least one Cabinet Member from each authority)</del></p> <p><del>Substitutions: see paragraphs 1.4 to 1.7 above.</del></p> <p>NOTE: No member of this Joint Committee shall be appointed to the Joint Appointments and Disciplinary Appeals Committee</p> <p>Substitutions:</p> <p><b><u>Each The</u></b> Council shall appoint</p>	<p>Has executive powers in relation to terms of reference 2, 3, 5 and 6 below:</p> <p>1. The making of recommendations to the full Councils on the appointment and dismissal of the <del>joint</del> Head of the Paid Service, or the taking of disciplinary action against him/her; When dealing with potential dismissal, or disciplinary action the committee will carry out the necessary disciplinary hearing and the report to the full Councils will detail the opinions of each of the independent persons.</p> <p>2. The appointment of any other <del>joint</del> Chief Officer or <del>joint</del> Deputy Chief Officer (this includes the Chief Executive where the post of Chief Executive is separate from the Post of Head of the Paid Service).</p> <p>3. The dismissal of, or the taking of any disciplinary action against any other <del>joint</del> Chief Officer or <del>joint</del> Deputy Chief Officer except the <del>joint</del> Section 151 Officer and the <del>joint</del> Monitoring Officer (this includes the Chief Executive where the post of Chief Executive is separate from the Post of Head of the Paid Service);</p> <p>4. The making of recommendations to the full Councils on the dismissal of the <del>joint</del> Monitoring Officer or the <del>joint</del> Section 151 Officer, or on the taking of disciplinary action against him/her. When dealing with potential dismissal or disciplinary action the committee will carry out the necessary disciplinary hearing and the report to the full Councils with detail the opinions of each of the independent persons.</p> <p><del>5. Considering and reporting to each Council on 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.</del></p> <p><del>6</del> <b>5.</b> Approving staffing policies in respect of redundancy, early retirement, and discretionary compensation</p> <p><b>NOTE:</b> In the exercise of these functions the Committee must act in accordance with Standing Orders relating to Staff and the Local Authority (Standing Orders) (England) Regulations 2001 (as amended) including:</p> <p>(a) Head of the Paid Service - No offer of appointment may be made until the proposed appointment has been</p>

	<p>three named members who may act as a substitute.</p>	<p>approved by the full Councils and until notice of the proposed appointment has been given by the proper officer to <del>each Council's</del> <u>the</u> Cabinet Members and the Leaders <del>have</del> <b>has</b> not objected within the time given for response. No notice of dismissal may be issued until the proposed dismissal has been approved by the full Councils, taking into account the recommendation of a <del>joint</del> committee which must <del>comprise</del> <b>include</b> at least 2 independent persons, and until notice of the proposed dismissal has been given by the proper officer to <del>each Council's</del> <u>the</u> Cabinet Members and the Leaders <del>have</del> <b>has</b> not objected within the time given for response.</p> <p>(b) Monitoring Officer and Section 151 Officer - No offer of appointment may be made until notice of the proposed appointment has been given by the proper officer to <del>each Council's</del> <u>the</u> Cabinet Members and the Leaders <del>have</del> <b>has</b> not objected within the time given for response. No notice of dismissal may be issued until the proposed dismissal has been approved by the full Councils, taking into account the recommendation of a <del>joint</del> committee which must <del>comprise</del> <b>include</b> at least 2 independent persons, and until notice of the proposed dismissal has been given by the proper officer to <del>each Council's</del> <u>the</u> Cabinet Members and the Leaders <del>have</del> <b>has</b> not objected within the time given for response.</p> <p>(c) Other Chief Officers and Deputy Chief Officers (this includes the Chief Executive where the post of Chief Executive is separate from the Post of Head of the Paid Service) – no offer of appointment may be made nor notice of dismissal issued until notice of the proposed appointment or dismissal has been given by the proper officer to <del>each Council's</del> <u>the</u> Cabinet Members and the Leaders <del>have</del> <b>has</b> not objected within the time given for response.</p> <p><i>(SHDC at its meeting on 24.6.15 and Breckland DC at its meeting on 9.7.15 agreed that the 2 independent persons should comprise, where possible, 1 independent person appointed by SHDC and 1 independent person appointed by Breckland DC.</i></p> <p><b><u>(Breckland DC at its meeting on 8.4.21 and SHDC at its meeting on [21.4.21] agreed to continue to use the independent person appointed by the other Council until such time as each Council could appoint its own additional independent person.)</u></b></p>
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NOTE: The quorum for the Appointments and Disciplinary Appeals Committee will revert to 3 in accordance with Standing Order no. 38 which requires the quorum of each Committee and Sub-Committee to be three or one-third whichever is the greater. The previous quorum of 4 was set to ensure a balance of representation from each Council.

<p><i>Joint</i> Appointments &amp; Disciplinary Appeals Committee</p>	<p><i>8 Members</i></p> <p><b><u>4 Members</u></b></p> <p><i>4 Breckland Members &amp; 4 South Holland Members</i> in accordance with Local Government (Committees and Political Groups) Regulations 1990</p> <p>(Quorum <del>2</del> 3 <i>from each authority including</i> at least one Cabinet Member <del>from</del> <i>each authority</i>)</p> <p>No member of the <i>Joint</i> Appointments &amp; Disciplinary Committee shall be appointed to this <i>Joint</i> Committee</p>	<p>Determining appeals from relevant persons in respect of decisions of the <i>Joint</i> Appointments and Disciplinary Committee relating to the appointment, dismissal or disciplinary action in respect of Chief Officers or Deputy Chief Officers (other than the Head of Paid Service, Monitoring Officer or S151 Officer)</p> <p><b>Note:</b> In the exercise of these functions the Committee must act in accordance with the Local Authority (Standing Orders) (England) Regulations 2001 (as amended)</p> <p><i>Joint</i> Appointments and Disciplinary Committee - When the Committee meets to make recommendations to the full Councils on the proposed dismissal of the <i>Joint</i> Head of Paid Service, the <i>Joint</i> S151 Officer or the <i>Joint</i> Monitoring Officer, the Committee shall also comprise at least 2 independent persons appointed under section 28(7) of the Localism Act 2011 in accordance with the following priority order:</p> <ol style="list-style-type: none"> <li>1. A person who has been appointed by the Council and who is a local government elector</li> <li>2. Any other person who has been appointed by the Council</li> <li>3. A person who has been appointed by another authority or authorities</li> </ol> <p><del><i>SHDC at its meeting on 24.6.15 and Breckland DC at its meeting on 9.7.15 agreed that the 2 independent persons should comprise, where possible, 1 independent person appointed by SHDC and 1 independent person appointed by Breckland DC.</i></del></p> <p><b><u>(Breckland DC at its meeting on 8.4.21 and SHDC at its meeting on [21.4.21] agreed to continue to use the independent person appointed by the other Council until such time as each Council could appoint its own additional independent person.)</u></b></p>
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**APPENDIX C** - Proposed Shared Memorandum of Agreement Committee and other proposed amendments to the Constitution relating to this Committee

<p>Shared Memorandum of Agreement Committee</p>	<p>6 Members          (3 Breckland Members &amp; 3 South Holland Members in accordance with Local Government (Committees and Political Groups) Regulations 1990)          (Quorum 6 which must comprise 3 members from each authority including at least one Cabinet Member from each authority)          Each Council shall appoint three named members who may act as a substitute.</p>	<p>Considering and reporting to each Council on 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 made between Breckland District Council and South Holland District Council dated 1 April 2011.</p> <p>This Committee shall dissolve and all references to the Committee shall be removed from the Constitution upon the later of:</p> <p>(i) the date on which the Leaders of each Council jointly confirm that the period of dispute permitted by the Memorandum of Agreement has expired and that no disputes are outstanding; or          (ii) the date on which the last of any outstanding disputes is resolved in accordance with the terms of the Memorandum of Agreement.</p>
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Amendment 2  
 Part 3 Section D - Delegations to Committees

**1.2 The quorum of the Shared Memorandum of Agreement Committee shall be 6, consisting of 3 members from Breckland Council and 3 members from South Holland District Council.**

Amendment 3  
 STANDING ORDER NO. 38

**38.3 The quorum of the Shared Memorandum of Agreement Committee shall be 6, consisting of 3 members from Breckland Council and 3 members from South Holland District Council.**

**APPENDIX D - Proposed amended Proper Officer appointments**

<b>Statutory reference</b>	<b>Responsibility</b>	<b>Existing</b>	<b>Proposed</b>
<b>All legislation prior to Local Government Act 1972</b>	Proper officer where earlier legislation refers to Clerk of the Council	CX and all Directors	no change
<b>General</b>	Appointment of any Proper Officer in relation to any matter where no Officer is specifically designated.	CX	no change
	All Chief Officers may appoint a person to act in their place to exercise any power as proper officer: <ul style="list-style-type: none"> <li>• In the absence of the proper officer</li> <li>• When the proper officer is not available to exercise power at relevant time</li> <li>• In accordance with any general direction given by him or her</li> </ul>	All COs	
<b>Local Government Act 1972</b>	Officer designated to act as Parish Trustee with Chairman of Parish Meetings where no Parish Council exists	CX and all Directors	no change
S13(3)			
S83	To receive declarations of acceptance of office	CX and all Directors	no change
S84	Receipt of declaration of resignation	CX and all Directors	no change
S88	Convening of meeting of the Council to fill vacancy in office of Mayor (where such a casual vacancy exists)	CX and all Directors	no change
S89	Receipt of notice of casual vacancy from two local government electors	RO	no change
S100B(2)	Officer designated to exclude from agenda papers made available to public reports (or parts) likely to be taken in absence of public	CX and Director of Strategy & Governance	CX and Director responsible for democratic services
S100B(7)(c)	Officer designated to supply copies of other documents	Director of Strategy & Governance	Director responsible for democratic services
LS100C(2)	Officer designated to make a written summary in lieu of confidential minutes	Director of Strategy & Governance	Director responsible for democratic services

S100(1)(a)	Officer designated to compile a list of background papers to a report	CX and Director of Strategy & Governance	CX and Director responsible for democratic services
S100D(5)(a)	Officer designated to identify the background papers on which a report is based	CX and Director of Strategy & Governance	CX and Director responsible for democratic services
S100F(2)	Officer designated to identify documents not available to Members under that section	Director of Strategy & Governance	Director responsible for democratic services
S115(2)	Officer to whom all officers shall pay monies received by them and due to the local authority	Executive Director responsible for finance	Director responsible for finance
S146	Production of statutory declaration to secure change of name of the Council (where relevant) where securities are standing in the books of the company in the name of the Council	Executive Director responsible for finance	Director responsible for finance
S191	Officer designated to receive notices of Ordnance Survey in relation to ascertaining or locating local authority boundaries	Director of Strategy & Governance	Director responsible for legal services
S210(6)&(7)	Officer designated to exercise any charity functions by officers of the "old" local authority where there is no holding of a corresponding office in the "new" local authority	CX and all Directors	no change
S212(1)&(2)	Officer designated to act as local registrar for Land Charges Act, 1925	Executive Director of Place	Director responsible for land charges
S225(1)	Officer designated to receive and give receipt for any document required to be formally deposited with the Council	Director of Strategy & Governance	Director responsible for legal services
S228	Accounts of a local authority and of any proper officer of a local authority to be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts	Executive Director responsible for finance	Director responsible for finance
S229(5)	Authentication of documents – Officer designated to certify a photographic copy of a document in the custody of the Council	CX	CX and Director responsible for legal services

NOTES:

1. All CO's can also sign documents under s234 LGA 1972 in their respective areas of jurisdiction under Part 3 Section F1 para 15

of the Constitution

2. There is a general authorisation under SO 50 to MO, SLO, relevant CO and any officer authorised by MO or relevant CO to authenticate documents for legal proceedings

3. There are other authentication of documents appointments in this schedule

S234	Authentication of documents – Power to sign formal notices, orders or other documents made or issued under any enactment by the Council	CX and all CO's in their respective areas of jurisdiction.	no change
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NOTES:

1. There is a general authorisation under SO 50 to MO, SLO, relevant CO and any officer authorised by MO or relevant CO to authenticate documents for legal proceedings

2. There are other authentication of documents appointments in this schedule)

S236(9)&(10)	Officer designated to send copies of all bye laws made by the Council to the Council of every Parish or Community to which they apply and to the County Council	Director of Strategy & Governance	Director responsible for legal services
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S238	Authentication of documents – Officer designated to sign the certificate on any printed copy of the byelaws authenticating such prints as a true and correct copy	CX	CX and Director responsible for legal services
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NOTES:

1. All CO's can also sign documents under s234 LGA 1972 in their respective areas of jurisdiction under Part 3 Section F1 para 15 of the Constitution

2. There is a general authorisation under SO 50 to MO, SLO, relevant CO and any officer authorised by MO or relevant CO to authenticate documents for legal proceedings

3. There are other authentication of documents appointments in this schedule)

Schedule 12	Issue and service of summons to meetings of Council and Committees thereof: receipt of formal notification from Councillors of address to which it is desired such summons to be sent	CX and all Directors	no change
Schedule 14 para.25(7)	Authentication of documents – Officer designated to certify copy resolutions  NOTES:  1. All CO's can also sign documents under s234 LGA 1972 in their respective areas of jurisdiction under Part 3 Section F1 para 15 of the Constitution  2. There is a general authorisation under SO 50 to MO, SLO, relevant CO and any officer authorised by MO or relevant CO to authenticate documents for legal proceedings  3. There are other authentication of documents appointments in this schedule)	CX	CX and Director responsible for legal services
Local Government Act 1974 s30	Publication of reports re Ombudsman investigations	Director of Strategy & Governance	Director responsible for legal services
<b>Representation of the People Act 1983</b>			
S52	Officer to act in the event of incapacity of Electoral Registration Officer	Deputy ERO	no change
Part III	Officer for the purposes of legal proceedings following an election	RO	no change
Schedule 4	Officer for the purposes of election expenses and the keeping of the return and declaration	RO	no change
<b>Local Government and Finance Act 1988</b> s116	Officer designated to notify auditor of date, time and place of meeting to consider s151 officer's S.114 report, and decision of such meeting	Director for Strategy & Governance and Director responsible for Finance	Director responsible for legal services and Director responsible for finance
<b>Local Government and Housing Act 1989</b> s2	Officer charged with retaining a list of politically restricted posts	Director of Strategy & Governance	Director responsible for legal services

<b>Local Authorities (Standing Orders) (England) Regulations 2001 – Schedule 1</b>	Officer designated to notify the Executive of proposed appointments to and dismissals from senior posts	Director of Strategy & Governance	Director responsible for democratic services
<b>Local Government (Miscellaneous Provisions) Act 1976 s41</b>	Authentication of documents – Certification of copies of resolutions, order, reports or minutes of the Council or any predecessor authority	CX	CX and Director responsible for legal services
	NOTES:  1. All CO's can also sign documents under s234 LGA 1972 in their respective areas of jurisdiction under Part 3 Section F1 para 15 of the Constitution  2. There is a general authorisation under SO 50 to MO, SLO, relevant CO and any officer authorised by MO or relevant CO to authenticate documents for legal proceedings  3. There are other authentication of documents appointments in this schedule)		
<b>Local Government (Committees and Political Groups) Regulations 1990</b>	Officer to receive notice of constitution / membership / cessation of membership of political group/change of name of group or leader	Director of Strategy & Governance	Director responsible for democratic services
regs 8, 9 and 10 Regs 13 and 14	Officer to accept wishes of political group re proportionality/officer to notify political groups of seats available	Director of Strategy & Governance	Director responsible for democratic services
<b>Local Authorities (Referendums) (Petitions) (England) Regulations 2011</b>	Publication of verification number equal to 5 per cent of electors on electoral register	ERO	no change
Reg 4 and 5 Reg 7	Notifications to petition organiser of post-announcement petitions	ERO	no change
Reg 8	Amalgamation of petitions	ERO	no change
Reg 11	Procedures on receipt of petitions	ERO	no change
Reg 13 and 14	Publicity for valid and invalid petitions	ERO	no change

<b>Local Authorities (Conduct of Referendums) (England) Regulations 2012</b>	Publicity and other information in connection with referendum	Director of Strategy & Governance	ERO
Reg 4 Schedule 3 Part 7	Proper officer for receipt of declaration of result	Director of Strategy & Governance	ERO
Schedule 5 Part 7	Proper officer for receipt of declaration of result	Director of Strategy & Governance	ERO
<b>Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012</b>	Exclusion of part of any report relating to a private meeting / documents to press and public	Director of Strategy & Governance	Director responsible for democratic services
Reg 7 Reg 10	Duties relating to making of key decisions where publication of the intention to make a decision is impracticable	Director of Strategy & Governance	Director responsible for democratic services
Reg 12	Written statement of meeting of decision-making body at which executive decision made	Director of Strategy & Governance	Director responsible for democratic services
Reg 13	Written statement of executive decisions made by individual members	Director of Strategy & Governance	Director responsible for democratic services
Reg 14	Making executive decisions available for inspection	Director of Strategy & Governance	Director responsible for democratic services
Reg 15	Compilation of list of background papers	Director of Strategy & Governance	Director responsible for democratic services
Reg 16 and 20	Documents not open for inspection due to containing exempt or confidential information or advice of political adviser	Director of Strategy & Governance	Director responsible for democratic services
<b>Local Government Finance Act 1992 - s68</b> <b>Local Government Finance Act 1988 - s139A</b>	Proper officer for purposes of receipt of notice of Secretary of State requiring it to supply information to enable SOS to determine whether to exercise powers and how to perform functions	Director responsible for Finance	no change

<b>Neighbourhood Planning (Referendums) Regulations 2012 -</b>	Various	Director of Strategy & Governance	Director responsible for planning
<b>Local Authorities (Members' Allowances) (England) Regulations 2003</b> Reg 13 and 32	Proper officer for purposes of receiving notices in writing from any person or member electing to forgo allowances	Director of Strategy & Governance	Director responsible for democratic services
<b>Local Elections (Parishes and Communities) (England and Wales) Rules 2006</b> Rule 5	Proper officer for purposes of receiving requests for an election to fill a casual vacancy	RO	no change
<b>Local Elections (Principal Areas) (England and Wales) Rules 2006</b> Schedules 2 and 3	Proper officer for purposes of receiving results of contested and uncontested elections	Director of Strategy & Governance	RO

**Appointment of proper officers which are not defined in s270 Local Government Act 1972**

**Public Health (Control of Disease) Act 1984**

S48	Provision of certificate to justice of the peace for removal of body to mortuary or for immediate burial	Director of Strategy & Governance	Director responsible for public health
S59	Authentication of documents (also applies to any officer authorised in writing)	CX	CX and Director responsible for legal services

**NOTES:**

1. All CO's can also sign documents under s234 LGA 1972 in their respective areas of jurisdiction under Part 3 Section F1 para 15 of the Constitution

2. There is a general authorisation under SO 50 to MO, SLO, relevant CO and any officer authorised by MO or relevant CO to authenticate documents for legal proceedings

3. There are other authentication of documents appointments in this schedule

S60	Proper officer for purposes of service of any notice, order or other document on the Council	Director of Strategy & Governance	Director responsible for public health
S61 and 62	Power to enter premises	Director of Strategy & Governance	Director responsible for public health
<b>Health Protection Notification Regulations 2010</b>	Proper officer for purposes of receiving and disclosing notifications of disease, infection or contamination	Director of Strategy & Governance	Director responsible for public health
<b>Food Safety Act 1990</b> S49	Authentication of documents – included in SHDC schedule but needs to refer to this being a proper officer	CX	CX and Director responsible for legal services

NOTES:

1. All CO's can also sign documents under s234 LGA 1972 in their respective areas of jurisdiction under Part 3 Section F1 para 15 of the Constitution

2. There is a general authorisation under SO 50 to MO, SLO, relevant CO and any officer authorised by MO or relevant CO to authenticate documents for legal proceedings

3. There are other authentication of documents appointments in this schedule

<b>Localism Act 2011</b> S33	Proper officer for purpose of receiving requests from members and co-opted members for dispensations where member has a pecuniary interest	Director of Strategy & Governance	Director responsible for democratic services
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**Building Act 1984**

S35A	Legal proceedings – proper officer for purposes of justifying evidence and certification of evidence	Executive Director responsible for Planning	Director responsible for planning
S61	Proper officer and authorised officers have free access to works	Executive Director responsible for Planning	Director responsible for planning
S78	Officer designated to enforce Section 78 of the Building Act, 1984 in relation to Dangerous Buildings	Executive Director responsible for Planning	Director responsible for planning

S93	Proper officer for purposes of signing any notice, order, consent, demand or other document (also given to any officer authorised by them in writing	Executive Director responsible for Planning	Director responsible for planning
<b>Housing Act 2004</b> S4	Proper officer for purposes of receiving complaint about the condition of any residential premises in the district, for inspecting the premises to see if category 1 or 2 hazards exist, and for making a report as necessary	Executive Director responsible for Housing	Director responsible for housing
S239	Power of entry for carrying out survey or examination of premises in relation to an inspection under s4(2)	Executive Director responsible for Housing	Director responsible for housing
S249	Certification of documents as proof of designation of an area as subject to additional licensing, or designation of an area as subject to selective licensing	Executive Director responsible for Housing	Director responsible for housing
<b>Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989</b> Reg 23	Rating list proved in proceedings by production of copy list or part list certified by proper officer	Executive Director responsible for Finance	Director responsible for finance

Acronyms:

CX – Chief Executive  
CO – Chief Officer  
RO – Returning Officer  
ERO – Electoral Registration Officer  
MO – Monitoring Officer  
SLO – Senior Legal Officer