

Agenda Item No:

Report to: Cabinet

Date of Meeting: 5th March 2012

Report Title: Review of the Constitution

Report By: Neil Dart
Deputy Chief Executive & Director of Corporate Resources

Purpose of Report

To seek approval of changes to the Constitution to give effect to the Senior Management Restructure and to take account of the Localism Act 2011.

Recommendation(s)

- 1. That Cabinet recommend to Council that the attached sections of the revised Constitution be agreed and take effect from 1st April 2012.**

Reasons for Recommendations

Cabinet agreed the Senior Management Restructure on 16 November 2011. Certain aspects of the restructure require amendment to the Constitution before they can take effect. Further, the enactment of the Localism Act 2011 affects certain parts of the Constitution and some of these changes are expected to take effect from April.

Introduction

Constitutional Requirement

1. The Council's Constitution is reviewed annually to take account of changed circumstances or legislative requirements.
2. This year there have been two driving factors in the review:-
 - the implementation of the Senior Management Restructure as agreed by Cabinet on 16 November 2011; and
 - the Localism Act 2011.

Senior Management Restructure

3. The detail of the Senior Management Restructure is contained in the Cabinet report dated 16 November 2011. The restructure was a Cabinet decision but its implementation requires amendment to the Constitution which necessitates a Council decision.
4. With the deletion of the posts of:-
 - the Chief Executive
 - the Borough Solicitor
 - the Borough Planning Officerand the restructuring of services under new heads of service, there have to be numerous amendments to the Constitution. For example, where there is reference to the Chief Executive, the new reference is to the 3 Directors or, where the reference is to the Chief Executive as the head of paid service, then the reference may be to the head of paid service or the Director of Corporate Resources who Council has designated as the head of paid service under the new structure taking effect from 1 April.
5. Parts 8 and 9 of the Constitution are particularly affected by the Restructure. These parts of the Constitution relate to delegations to officers (Part 8) and financial rules (Part 9).
6. As members will recall, the delegation to the Chief Executive under the Constitution is wide and Council has agreed the assumption of full delegation to the Chief Executive and his/her nominees subject to the exceptions set out in Parts 8 and 9.
7. The general thrust adopted in relation to delegation to directors, in place of the chief executive, is that each should be authorised to act individually. It is assumed that the sharing of this responsibility for decision-making would fall into line with directorate responsibilities. Previously, with certain exceptions including decisions on management consultancy agreements, the Chief Executive effectively nominated directors to make all executive decisions in relation to their directorates. There is, therefore, in effect little change from the previous scheme of delegations.

8. Financial Rules Part 3, Table A sets out the exceptions to the general authorisation from Cabinet to the Chief Executive. And his/her nominees. Members will be aware that Council on the 22nd February agreed that Peter Grace, Head of Financial Services be designated as the Section 151 Officer, also known as the Chief Finance Officer. The officer currently so designated is Neil Dart, Director of Corporate Resources and Deputy Chief Executive. In the proposed amendments, to continue with the general thrust of authorising the director with responsibility, the Director of Corporate Resources is substituted for the Chief Executive.

The Localism Act 2011

9. Whilst there are provisions in the Localism Act which will affect the Council's Constitution, many of these have yet to be implemented and will require secondary legislation. One significant area affected is that relating to Standards Committee. We are awaiting regulations which will determine what is to be included in the member register of interest which is to be maintained by the monitoring officer.
10. The Localism Act Section 25 makes provision regarding predetermination and the Planning Protocol is updated to take account of the provision but the general view is that the law on predetermination is not changed from the existing common law

Working Arrangements Group

11. The views of the Working Arrangements Group on the proposed changes were sought and included following discussion at their meeting on 16th January 2012.

Note

12. Part 6 of the Constitution remains unchanged and is therefore not attached.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Area(s) Affected

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	Yes
Risk Management	Yes
Environmental Issues	Yes
Economic/Financial Implications	Yes
Human Rights Act	Yes

Organisational Consequences
Local People's Views

Yes
Yes

Background Information

Appendix Parts 1 - 5 and 7 to 9 of the Constitution with amendments

Officer to Contact

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