

**BROMSGROVE DISTRICT COUNCIL**

**FULL COUNCIL**

**17 MARCH 2010**

**REVISIONS TO THE CONSTITUTION**

Responsible Portfolio Holder	Cllr Geoff Denaro
Responsible Head of Service	Claire Felton

**1. SUMMARY**

1.1 In order to keep the Constitution up-to-date and to reflect the shared management team which will formally take office on 20 April 2010 to support both Bromsgrove District and Redditch Borough Council, the Officer Employment Rules need to be modified. In addition, clarification of the Scheme of Delegation is recommended to authorise officers seconded to the Council under Shared Service arrangements to exercise delegations on behalf of the Council. This report explains the changes that need to be made and seeks Members' approval.

**2. RECOMMENDATION**

2.1 Members are asked to approve the following recommendations:-

2.1.1 That the amended Employment Procedure Rules at Appendix 1 be approved as Part 13 of the Constitution with effect from 20 April 2010.

2.1.2 That the words in below are added to clause 1 b. of the Preamble to the Scheme of Delegation:

For the avoidance of doubt, successor post holder(s) include officers placed at the disposal of the Council under secondment arrangements pursuant to s113 of the Local Government Act 1972 or any other enactment or power.

**3. BACKGROUND**

3.1 At the Council meeting on 2009 Members voted in favour of adopting a single management team for Bromsgrove District Council and Redditch Borough Council. Appointments to the new Senior Management Team have now been made and the new team will formally take office on 20 April 2010.

### **Officer Employment Rules**

- 3.2 The new management team includes a statutory chief officer (the s151 Officer), the statutory post of the Monitoring Officer and 4 non-statutory Chief Officers (officers who are required to report directly to the Head of Paid Service, namely the 3 Executive Directors and Director of Policy, Performance and Partnerships) whose appointment, dismissal and disciplinary action are governed by statutory provisions. Statutory regulations require authorities to have standing orders in place to deal with certain employment issues relating to statutory chief officers and non-statutory chief officer and prescribe minimum wording which must be included in every Council's Constitution. The Bromsgrove District Council Officer Employment Rules ("the Rules") in Part 13 of the Constitution include more than just the prescribed.
- 3.3 The Rules set out the requirements for:
- 3.3.1 the appointment, dismissal and disciplinary action taken in respect of statutory chief officers and non-statutory chief officers; and
  - 3.3.2 procedures relating to the job applications received from persons who are related to existing councillors or officers; and
  - 3.3.3 the issue of seeking support for appointment and the consequences of doing so for candidates and for Councillors.
- 3.4 The Rules are now slightly out of date and require amendment to bring them in line with current statutory requirements.
- 3.5 In addition, officers have identified that the Officer Employment Rules at Redditch Borough Council are slightly different to those at Bromsgrove. Theoretically this could lead to a discrepancy of treatment between 2 chief officers depending on whether they are employed by Bromsgrove District Council. It is therefore proposed that the Officer Employment Rules at both Councils are aligned. For the time being it is proposed that the Rules contain simply the minimum statutory requirements which can be added to in due course.
- 3.6 Accordingly, an up-to-date version of the Rules has been drafted to incorporate the current required wording. Members at Redditch will be requested to adopt an identical version of the Officer Employment Rules at their next full Council meeting later this month.

### **Scheme of Delegations**

- 3.7 The current version of the Scheme of Delegations makes provision for a restructuring of the management team and provides in the Preamble that:
- 1. This Scheme of Delegation will be updated regularly. However:

- a. any reference to specific legislation or statutory provisions shall be deemed to refer to any relevant aspects of any successive legislation or statutory provision;
- b. reference to post holder(s) shall be deemed to refer to any successor post holder(s) who is/are charged with the same responsibilities following any reorganisation or reallocation of functions, save that where there is any ambiguity as to who shall exercise a particular delegation of authority the delegation shall refer to the higher-ranking officer(s).

3.8 Officers seconded to the Council under shared services are treated by s113 as employees of this Council and as such are able to exercise delegations on behalf of the Council, but for the avoidance of doubt it is proposed that an extra sentence be added to clause 1 b. above to say:

“For the avoidance of doubt, successor post holder(s) include officers placed at the disposal of the Council under secondment arrangements pursuant to s113 of the Local Government Act 1972 or any other enactment or power.”

#### **4. FINANCIAL IMPLICATIONS**

4.1 There are no financial implications arising out of this report.

#### **5. LEGAL IMPLICATIONS**

5.1 The Local Government and Housing Act 1989 (as amended) defines statutory chief officers and non-statutory chief officers in s2 (6) & (7). The Regulations setting out the prescribed wording for standing orders in relation to the employment of staff are:

- The Local Authorities (Standing Orders) Regulations 1993
- The Local Government Act 2000
- The Local Authorities (Standing Orders) (England) Regulations 2001

and these Regulations are made pursuant to ss8, 20 &190 of the Local Government and Housing Act 1989 (as amended), ss19 & 26 of the Local Government Act 1992 and the Local Government Act 2000 (as amended).

#### **6. COUNCIL OBJECTIVES**

6.1 The subject matter of this report links to the Council Objective of Improvement CO2.

#### **7. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

7.1 The main risks associated with the details included in this report are:

- Failing to operate under up to date standing orders for staff employment – risk of challenge.
- Failing to put in place a common set of rules covering officer employment at Bromsgrove District Council and Redditch Borough Council – risk of differential treatment of staff.

7.2 These risks will be addressed if members to approve the recommendations set out in this report

**8. CUSTOMER IMPLICATIONS**

8.1 None

**9. EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 None

**10. VALUE FOR MONEY IMPLICATIONS**

10.1 None

**11. CLIMATE CHANGE AND CARBON IMPLICATIONS**

11.1 None

**12. OTHER IMPLICATIONS**

Procurement Issues	None
Personnel	None
Governance/Performance Management	Change to constitution required
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Biodiversity	None

**13. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	Yes
Joint Chief Executive	No

Executive Director - Partnerships and Projects	N/a
Executive Director - Services	N/a
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	N/a
Corporate Procurement Team	N/a

**14. WARDS AFFECTED**

All wards

**15. APPENDICES**

Appendix 1 Draft revised Part 13 to the Constitution – Officer Employment Procedure Rules

**16. BACKGROUND PAPERS**

Part 4H Redditch Borough Council Constitution

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