

**COUNCIL
9 JULY 2020**

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: CONSTITUTIONAL (INCLUDING FINANCIAL REGULATION) CHANGES TO FOLLOWING TIER 1 & 2 RESTRUCTURE

REPORT OF THE SERVICE DIRECTOR LEGAL AND COMMUNITY & MONITORING OFFICER

EXECUTIVE MEMBER: THE LEADER OF THE COUNCIL: COUNCILLOR MARTIN STEARS-HANDSCOMB

COUNCIL PRIORITY: BE A MORE WELCOMING AND INCLUSIVE COUNCIL

1. EXECUTIVE SUMMARY

- 1.1 To present consequential changes for approval following the Tier 1 and 2 management changes.

2. RECOMMENDATIONS

- 2.1. That Full Council approves the proposed amendments set out under 8.1 & 8.3, or where alternatives are proposed – such alternatives as are appropriate. Such changes to come into effect on **18 July 2020**.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To ensure the Constitution reflects the new senior management structure and any necessary updated approval process.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. This follows the Full Council decisions relating to the senior management structure and appointment of a Managing Director, of 27 February¹ 2020 and 16 April 2020². The Leader of Council, Deputy Leader and Cllr Levett, as Group Leader, have however also been consulted on these proposals.

¹ <https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=136&MId=2379&Ver=4>

² <https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=136&MId=2489&Ver=4>

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision, it is a Full Council decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Full Council made the decisions in February and April 2020 to delete from the establishment the roles of Chief Executive and Deputy Chief Executive, replacing these with and appointing to a Managing Director role. That role is effective from 18 July 2020. As a result, certain changes are required to the Constitution.

- 7.2 Following expressions of interest and interview process in June 2020, the Service Director: Regulatory has been appointed to act in the absence of the Managing Director.

8. RELEVANT CONSIDERATIONS

Constitution sections 1-18 & 20:

- 8.1. Some consequential changes are required to:

Various	Changing the reference throughout from Chief Executive to Managing Director.
Various	Delete reference to Deputy Chief Executive & 14.6.6. Re-number subsequent delegations under 14.6.6 onwards.
2.2.2	Amending the definition of Head of Paid Service to read: <i>“Head of Paid Service”</i> <i>an officer who must be appointed by law to carry out certain functions. See Section 12.2 for more details. The officer will usually have other duties and a different job title. See Section 12.1.4 for which officer is the Head of Paid Service.</i> <i>Any reference to Chief Executive in legislation or Council Policy and Procedure documentation is deemed to be a reference to the holder of this position</i>
10.3.4(b)	Delete reference to Deputy Chief Executive as no longer such a post. Add Returning Officer / Electoral Registrations Officer (‘RO/ERO’) as not part of Managing Director’s role. Add interview and appoint for the posts of Service Directors. b) to read: <i>(b) To interview and appoint candidates for the posts of Deputy Chief Executive Service Directors, and to interview and recommend to Council the appointment of Monitoring Officer, and Chief Finance Officer and Returning Officer/ Electoral Registration Officer.</i>
10.3.4 (c)	Delete as no longer required (covered above) & subsequent renumbering in sections: (c) To appoint candidates for the posts of Service Directors.

14.6.2(c)	Change to Monitoring Officer to reflect current practice: <i>c) All officers discharging these functions may authorise any member of their staff to act on their behalf and shall keep a written record of all sub-delegations in a register held by the Monitoring Officer Chief Executive (subject to the limitations at 14.6.3 and within specific policies).</i>
14.6.11	New (viii): adding to the Service Director: Regulatory the following: <i>"In the absence of the Managing Director to exercise the functions, powers or duties of the Managing Director"</i>

- 8.2 Members should note that the role of RO/ERO, is yet to be confirmed by Council as these were excluded from the Managing Director's role. The default position under the Constitution since June 2018 is that the role(s) "in absence or vacancy" fall to the Service Director: Legal & Community – this will therefore be the acting role position until the process for appointing the new RO/ERO is concluded by appointment by Full Council (anticipated by September Council meeting).

Financial Regulations section 19

- 8.3 Some consequential changes are required to:

Various	Changing the reference throughout from Chief Executive to Managing Director.
Para 1.2	Delete the references to the Deputy Chief Executive
Para 19.17	That the Managing Director's expenses claims will be approved by the Chief Finance Officer (previously the Chief Executive's claims were approved by the Deputy Chief Executive)

9. LEGAL IMPLICATIONS

- 9.1. Full Council's terms of reference include "approving or adopting the Policy Framework". The Policy Framework includes the Constitution.
- 9.2. Section 37 Local Government Act 2000 requires the Council to have in place a Constitution and to keep that under review. The Local Government Act 2000 section 9P sets out the requirements of a local authority's Constitution, including the requirements to prepare it and keep it up to date and the requirement to make it available for public inspection.
- 9.3. The Service Director: Legal & Community's delegation at 14.6.8(a) states as follows:
*"(xxii) To carry out the duties of the Electoral Registration Officer because of the Registration Officer's inability to act or because of a vacancy.
 (xxiii) To carry out the duties of the Returning Officer because of his inability to act or because of a vacancy."*
 In respect of the ERO role this is the effective appointed Deputy position under s52(2) of the Representation of the People Act 1983.

10. FINANCIAL IMPLICATIONS

10.1 There are no financial implications arising from this report.

11. RISK IMPLICATIONS

11.1. Ensuring the Council has appropriate governance arrangements in place is an important risk mitigation measure. The Council's Constitution is a fundamental part of those governance arrangements.

12. EQUALITIES IMPLICATIONS

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 Otherwise, there are no equalities implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

13.1. The Social Value Act and "go local" requirements do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

14.1 There are no direct implications from this report, other than changes in delegations and a reflection of updated processes following on from changes to the Employment Committee's change of remit.

15. ENVIRONMENTAL IMPLICATIONS

15.1 None identified.

16. APPENDICES

16.1 None.

17. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 Previous constitution:
<https://www.north-herts.gov.uk/home/council-and-democracy/council-constitution>