

Changes to the Constitution – Proper Officers

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Purpose of the Report

Under the relevant legislation, SSDC is required to appoint certain officers as Proper Officers and also to ensure that certain documents are executed under the Council's seal.

This report seeks to appoint additional officers as Proper Officer and to authorise the same officers to execute documents under seal.

Public Interest

Part of the Council's Constitution sets out the rules and procedures that govern how the Council operates, what decisions can be taken by committees and those that can be taken by officers.

Where the implementation of such decisions requires the execution of documents, it is important that there are sufficient officers authorised to enable this to happen without delay. However, due to staffing changes, additional officers are now required to ensure this process remains efficient and effective.

This report is seeking Council approval to the necessary constitutional changes.

Recommendation:

It is recommended that the following posts be appointed to act as Proper Officers for the Council and be authorised to execute certain documents under the Council's seal in addition to the Chief Executive:

- Director – Strategy & Commissioning
- Director – Service Delivery
- Director – Commercial Services
- Lead Specialist – Legal

Introduction

Under s112 of the Local Government Act 1972 a local authority must appoint such officers as it thinks necessary for the proper discharge of its functions (commonly known as 'proper officers').

The functions referred to the proper officers are mainly those of receiving or giving statutory and other notices, certifying or authenticating documents, keeping registers, issuing summonses for meetings etc.

Currently, following the loss of Ian Clarke and the removal of the post of Deputy Chief Executive from the senior leadership structure, only the Chief Executive is authorised to act as a Proper Officer. Operational efficiency dictates that additional officers are needed to carry out these functions, subject to those officers being of appropriate seniority and experience.

The signing of any document under seal is a separate consideration, and there are no specific provisions under the LGA 1972 governing use of the seal; the common law rule is that unless there are specific statutory provisions to the contrary, a local authority must execute all documents by affixing its common seal in the manner prescribed by its Constitution. In practice, the use of the seal is mainly in relation to deeds (in particular land & property transactions and s106 agreements) and certain Orders.

Provision is made within the Council's Constitution, specifically within Standing Orders and the Scheme of Delegation, governing use of the seal.

It is therefore proposed that additional officers are authorised to act as Proper Officers to and execute documents under seal.

Financial Implications

There are no financial implications arising from this proposal.

Legal Implications

These are set out and/or referred to in the body of the report.

Carbon Emissions and Climate Change Implications

There are no specific environmental implications arising from the subject matter of this report.

Equalities and Diversity Impact

There are no specific equality or diversity implications arising from the subject matter of this report.

Background Papers

The Local Government Act 1972
Council Constitution - Article 14
- Part 3; Section 6; Item 26
- Procedure Rules 28 & 29