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| Subject | Review of the Constitution | Status | For Publication |
| Report to | Authority | Date | 11 th June 2020 |
| Report of | Fund Director, Clerk, Monitoring Officer | | |
| Equality Impact Assessment | Not Required | Attached | No |
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1 Purpose of the Report

To secure approval for the Authority's updated Constitution.

2 Recommendations

2.1 Members are recommended to:

- a. Approve the updated constitution as detailed at www.southyorks.gov.uk.
 - b. Authorise the Monitoring Officer to make future presentational and factual amendments without reference to the Authority.
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3 Link to Corporate Objectives

3.1 This report links to the delivery of the following corporate objectives:

Effective and Transparent Governance

To uphold effective governance showing prudence and propriety at all times.

Maintaining an up to date constitution which reflects the actual operation of the Authority's governance and control framework is an important contributor to this objective.

4 Implications for the Corporate Risk Register

4.1 The actions outlined in this report address a number of the governance related risks set out in the Corporate Risk Register.

Background and Options

5.1 It is good practice to carry out an annual review of the Authority's Constitution to ensure that it is up to date in dealing with the various regulations which impact the Authority's work and addresses the expectations of regulators in key respects. Following significant work on the articles of the Constitution, the scheme of delegation, financial

regulations and contract standing orders last year. A further review of the whole suite of constitutional documents has been undertaken in this cycle this has included:

- Incorporating all the parts of the constitution within the framework of a single document. Internal hyperlinks will be added to make the document easier to navigate.
- A number of internal inconsistencies have been addressed, and policy documents which while important should not form part of the Constitution (like the Whistleblowing and Anti-Fraud and Corruption policies) have been removed, although they remain part of the policy framework.
- The following additional sections have been incorporated into the Constitution:
 - Officers' Code of Conduct – This has always existed as an HR policy but is generally included in local authority constitutions to give it an appropriate status and to mirror the Members' Code and the Protocol on Member Officer relations as the three refer to each other.
 - A Pensions Authority specific conflicts of interest policy. Adding this meets the expectations of the Pensions Regulator and the emerging work of the Good Governance Review. It reflects current practice and mirrors the Local Pension Board's separate policy which is a regulatory requirement.
 - Protocols on the operation of the Monitoring Officer and s73 Officer roles. These appear in some local authority constitutions and have been added to demonstrate compliance with good practice rather than as a result of any issues which are perceived to exist.
 - Incorporation of the newly approved members allowances scheme.
 - The addition in line with usual practice for local authority constitutions of a section setting out the management structure.
- The broad provisions of the constitution remain the same. However, a number of additions have been made, the most significant of which are:
 - In light of the actions that were required to deal with the response to the Covid-19 situation the addition of specific powers for officers to take the actions required to safeguard the Authority's assets and services in the event of a civil emergency. This is somewhat wider than the conventional urgency provisions but is limited by the fact that it will only apply in the case of a civil emergency.
 - The addition of a delegated power for the Head of Pensions Administration to determine whether an exit credit is payable to an employer under the regulations. This reflects recent changes in the regulations.
 - The provision of specific delegated authority to make compensation payments where required as part of the determination of appeals and findings of the Pensions Ombudsman. This simply makes existing practice explicit.
 - The addition of an additional lower tier in the approval hierarchy for debt write offs which for administrative convenience and in the case of payments of benefits to deal with the anticipated results of the GMP reconciliation exercise which will likely generate a very large number of small under and over payments.
 - The addition of the Deputy s.73 Officer (the Head of Finance and Corporate Services) as an officer able to sign sealed documents. This addresses the need for a sufficient number of signatories who often

need to be accessed at short notice (particularly for the completion of property transactions). This officer is the one least likely to be involved in decision making in relation to the documents requiring sealing and therefore maintains the necessary independent check.

- The addition of the maintenance of a Local Pension Board to the functions of the Authority. This reflects the requirements of the Regulations, the Board's constitution is a separate document.
- Ensuring the details for exercising the Authority's vote as a shareholder in Border to Coast are consistent between the articles of the Constitution and the Scheme of Delegation. This does not change existing practice, but simply addresses an inconsistency in wording between the two places.

5.2 While the work undertaken significantly brings all the various parts of the Constitution up to date and creates a more coherent document, an ongoing process is required in order, for example, to ensure consistency in presentation and numbering between the various sections which have been developed by different people at different times, and to deal with ongoing changes in the individuals holding specific roles (e.g. to incorporate new e mail addresses and telephone number). As the changes arising from this process do not represent changes to the provisions of the Constitution it is suggested that the Monitoring Officer be authorised to make changes of this nature without further recourse to the Authority for approval.

5 **Implications**

6.1 The proposals outlined in this report have the following implications:

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| Financial | There are no direct financial implications arising from the proposed changes to the constitution. |
| Human Resources | None specifically. The provisions of the Officer's Code of Conduct are unchanged other than at a very detailed level from the previous version. |
| ICT | None |
| Legal | Maintaining an up to date constitution serves to reduce the risk of the Authority acting illegally. |
| Procurement | None specifically. |

Sarah Norman

Gary Kirk

George Graham

Clerk

Monitoring Officer

Director

| Background Papers | |
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| Document | Place of Inspection |
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