

Report Title:	Appointment of Statutory Officers
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Councillor Dudley, Leader of the Council
Meeting and Date:	Council, 21 February 2017
Responsible Officer(s):	Russell O'Keefe, Strategic Director of Corporate and Community Services
Wards affected:	All

REPORT SUMMARY

The report requests approval for the statutory appointments of Monitoring Officer, Returning Officer and Electoral Registration Officer following the agreement by Employment Panel of a new management structure for the Corporate and Community Services Directorate.

1. DETAILS OF RECOMMENDATION(S)

1.1 RECOMMENDATION: That Council notes the report and appoints:

- i) **Head of Law and Governance, Mary Kilner, as the Council's Monitoring Officer.**
- ii) **Managing Director, Alison Alexander, as the Council's Returning Officer and Electoral Registration Officer.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

2.1 On the 21 September Employment Panel approved a new proposed management structure for the Corporate and Community Services Directorate and the changes were then agreed with the affected individuals.

2.2 These changes included the:

- Recruitment of a new Head of Law and Governance, Monitoring Officer, who is a qualified lawyer to strengthen the council's governance and provision of legal advice and support.
- Statutory role of Returning Officer transferring to the Managing Director which mirrors the approach in most local authorities.
- Deletion of the position of Head of Governance, Partnership, Performance and Policy. The post holder, David Scott, moving into a new role of Head of Strategy and Community Services with responsibility for strategy and performance, community and town centre engagement and management, leisure services, arboricultural services and the civic team.
- A new fixed term post of Corporate and Community Projects Lead be created. The post being filled by Kevin Mist with responsibility for a

number of key projects including the building of the new leisure centre and for overseeing the public realm and associated works.

- 2.3 Employment Panel agreed to implement the new structure once the new Head of Law and Governance had been recruited and taken up post. Following the appointment and the arrival of the post holder formal approval sought from Council to the statutory appointments of Monitoring Officer, Returning Officer and Electoral Registration Officer, which are requested within this report.
- 2.4 Mary Kilner's appointment as the Head of Law and Governance was approved by Employment Panel on the 5 January 2017 and in accordance with the constitution, members of the Cabinet have been informed and raised no objections. Mary brings a lot of expertise and experience having worked at senior levels in top law firms. She started with the Council on 2 February 2017.

Role of Monitoring Officer

- 2.5 The Monitoring Officer is a statutory appointment and serves as the guardian of the Council's Constitution and the decision-making process. The Monitoring Officer is responsible for advising the council on the legality of its decisions and providing guidance to councillors and officers on the Council's Constitution and its powers. The role has a responsibility to report breaches and possible breaches of the law or maladministration to the Council.
- 2.6 The Monitoring Officer works closely with the Council's Managing Director to assist in the role of promoting and maintaining high standards of conduct and probity within the Council.
- 2.7 The functions of the Monitoring Officer as set out in the constitution are:
1. **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
 2. **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council or to Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
 3. **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
 4. **Ensuring compliance with Budget and Framework Rules.** Advising whether Cabinet decisions are within the budget and policy framework in accordance with the requirement under the Budget and Framework Rules. The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
 5. **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

6. **Receiving reports.** The Monitoring Officer will receive and act on reports made by Ethical Standards Officers (ESOs) and make reports.
7. **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers and make reports or recommendations in respect of them.
8. **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the council, in particular through the provision of professional advice on the lawfulness or probity of any matter.
9. **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

2.8 If approved Mary Kilner would take up the role of Monitoring Officer from the 27 February 2017.

Role of Returning Officer and Electoral Registration Officer

- 2.9 The Returning Officer is the person who has the overall responsibility for the conduct of elections in the Borough.
- 2.10 The Returning Officer is an officer of the council but the role of the Returning Officer is a personal responsibility independent and separate from their duties as an employee of the council. In most local authorities, this role is held by the Head of Paid Service.
- 2.11 The Electoral Registration Officer (ERO) is the person with statutory responsibility for the creation and maintenance of the register of electors and the absent voters list. This person takes responsibility for publishing a revised electoral register and issuing monthly alterations notices. The ERO is also the Acting Returning Officer for UK parliamentary elections.
- 2.12 The Electoral Registration Officer is an officer of the council but the role of the Electoral Registration Officer is a personal responsibility, independent and separate from their duties as an employee of the council.
- 2.13 The two roles of Returning Officer and Electoral Registration Officer are usually combined and performed by a single person and it is proposed that these roles are undertaken by the Managing Director. Members are reassured that additional capacity to perform these duties will be available as a result of the agreed changes to service delivery from April 2017, with staff transferring to Achieving for Children and Optalis, and the recruitment to the Director of Children's Services role for Achieving for Children.
- 2.14 If approved Alison Alexander would immediately take over the role of Returning Officer and Electoral Registration Officer.

Option	Comments
To approve the statutory appointments The recommended option.	Allows the Council to continue to meet its statutory requirements
To not approve the statutory appointments	The Council would have to appoint other people into these roles.

Option	Comments
This is not a recommended option.	

3. KEY IMPLICATIONS

Table 2:

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Statutory officers appointed and commence duties.	Appointments not approved and existing arrangements continue.	27 February 2017	N/A	N/A	27 February 2017

4. FINANCIAL DETAILS / VALUE FOR MONEY

4.1 There are no direct financial implications arising from this report.

5. LEGAL IMPLICATIONS

5.1 Section 5 (1) of the Local Government and Housing Act 1989 places a duty on the Council to appoint one of its officers to the statutory position of Monitoring Officer and provide that officer with such staff and resources which, in that person's opinion, is necessary to allow them to carry out their duties.

5.2 The Representation of the People Act 1983 Section 35 requires the council to appoint an officer of the council to be the Returning Officer in local elections.

5.3 It is a requirement of Section 8 of Representation of the People Act 1983 that the Council appoints an Electoral Registration Officer (ERO). By virtue of section 28(1) of the Act only the ERO may act as Acting Returning Officer in parliamentary elections.

6. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
The proposals contained in this report do not deliver the expected improvements	Missed opportunity to improve service delivery	Managed implementation of the change to ensure benefits are realised.	Low

7. POTENTIAL IMPACTS

- 7.1 The changes will achieve a fit for purpose structure that meets the needs of the Council.

8. CONSULTATION

- 8.1 The proposals and appointment of the Head of Law and Governance were agreed by Employment Panel.

9. TIMETABLE FOR IMPLEMENTATION

Date	Details
Change of Returning Officer and Electoral Registration Officer	Immediately
Change of Monitoring Officer	27 February 2017

10. APPENDICES

- 10.1 N/A

11. BACKGROUND DOCUMENTS

- 11.1 N/A

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Councillor Dudley	Leader of the Council	2/02/17	2/02/17
Councillor Targowska	Principle Member for HR and Legal	2/02/17	2/02/17
Alison Alexander	Managing Director	24/01/17	30/01/17
Andy Jeffs	Interim Strategic Director	31/01/17	31/01/17
Robb Stubbs	Section 151 Officer	31/01/17	31/01/17
Terry Baldwin	Head of HR	31/01/17	31/01/17