

Council  
2015

8 September

**Name of Cabinet Member:**

Cabinet Member for Policing and Equalities - Councillor P Townshend

**Director Approving Submission of the report:**

Executive Director of Resources

**Ward(s) affected:**

All

Title: **Appointment of Acting Monitoring Officer and Delegation of Powers**

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**Is this a key decision?**

No

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**Executive Summary:** A number of changes need to be made to the Scheme of Delegation for Employees in the Constitution and the Council needs to appoint an Acting Monitoring Officer because the City Solicitor and Monitoring Officer has now left the Council. This report sets out:

- (a) A recommendation that the Legal Services Manager (Place and Regulatory) be appointed as Acting Monitoring Officer;
- (b) Changes needed to update onwards delegations from the Chief Executive and Executive Director (Resources) as Proper Officers
- (c) Changes needed to allocate functions of the City Solicitor/Monitoring Officer.

**Recommendations:**

Council is recommended to:

1. Designate the Legal Services Manager (Place and Regulatory) as Acting Monitoring Officer under Section 5 of the Local Government and Housing Act 1989;
2. Approve the proposed changes to onwards delegations of the Proper Officer functions of the Chief Executive and Executive Director of Resources set out in paragraph 2.2.1 of the report ;
3. Approve the proposed delegation of the functions of the City Solicitor/ Monitoring Officer as set out in paragraphs 2.3.1 and 2.3.4 of the report; and
4. Authorise the Legal Services Manager (Place and Regulatory) to amend the Constitution accordingly.

**List of Appendices included:** None

**Other useful background papers:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

**Will this report go to Council?**

Yes

## **Report title: Appointment of Acting Monitoring Officer and Delegation of Powers**

### **1. Context (or background)**

- 1.1 Under Section 5 of the Local Government and Housing Act 1989, every local authority must designate one of its officers as the Council's Monitoring Officer. The Monitoring Officer cannot be the Chief Finance Officer or Head of Paid Service. This designation must be made by the full Council and cannot be made by an elected member or officer. The Council's designated Monitoring Officer left the Council on 31<sup>st</sup> August 2015 and the Council now needs to appoint another officer as its Monitoring Officer.
- 1.2 The Council's Scheme of Delegation to Employees sets out functions and powers which are delegated to named officers. The Executive Director of Resources has a number of delegated powers which under the Constitution are further delegated to, among others, the City Solicitor. The Executive Director can, in the absence of the City Solicitor, take back these powers and delegate them to other officers. This he has done. However, certain functions are exercised by him as Proper Officer (with an onwards delegation in the Scheme to the City Solicitor) and these need to be re-delegated by full Council. The same applies in relation to one Proper Officer function of the Chief Executive.
- 1.3 Finally, the City Solicitor/Monitoring Officer has, under the Scheme of Delegation, a number of functions delegated to him/her in his/her own right. These now need to be delegated to other officers and the Constitution amended accordingly.
- 1.4 The detail of the changes needed to the delegations and the requirement to designate an officer as Monitoring Officer are set out in Part 2M of the Constitution and are set out in more detail below.

### **2. Options Considered**

#### **2.1 Appointment of Acting Monitoring Officer**

- 2.1.1 The Council must by law designate an officer as Monitoring Officer. The Council's Monitoring Officer left the Council on 31<sup>st</sup> August and it is recommended that, with effect from the date of today's meeting, the Legal Services Manager, (Place and Regulatory) be appointed Acting Monitoring Officer until further notice.

#### **2.2 Appointment of Proper Officer**

- 2.2.1 The Chief Executive and the Executive Director of Resources are the Council's appointed Proper Officer for a number of functions with onwards delegation to, among others, the City Solicitor. The table below sets out extracts from sections 6.1 and 6.2 of Part 2M of the Constitution where alternative

arrangements need to be made for the onwards delegation of these Proper Officer functions. The last column in the table shows out the current onwards delegation deleted and the proposed delegation underlined.

<b>Statutory or other Functions</b>		<b>Nominee/Limitations</b>
<b>Section 6.1 (Functions of Chief Executive)</b>		
2	To act as the Proper Officer for the purposes of receiving requests for dispensations under section 33 of the Localism Act 2011.	<del>City Solicitor.</del> <u>Legal Services Manager (Place and Regulatory)</u>
<b>Section 6.2 (Functions of Executive Director of Resources)</b>		
<b>Functions in relation to Council Meetings and Members</b>		
18	Receipt of Notice of Resignation of Office; and receipt of Notice of casual vacancy from two local government electors.	<del>City Solicitor.</del> <u>Members and Elections Team Manager</u>
19	Keeping a record of disclosures of Members' Interests.	<del>City Solicitor.</del> <u>Members and Elections Team Manager</u>
20	To receive notification of nominations to Committees and of political groups.	<del>City Solicitor.</del> <u>Members and Elections Team Manager</u>
21	Convening of meeting of Council to fill casual vacancy in office of Chairman.	<del>City Solicitor.</del> <u>Members and Elections Team Manager</u>
22	Receipt of Notices regarding address to which summons to meetings is to be sent and signature of summonses to Council meetings.	<del>City Solicitor.</del> <u>Members and Elections Team Manager</u>
23	Certification of resolutions and minutes of proceedings.	<del>City Solicitor.</del> <u>Members and Elections Team Manager</u>
24	All Proper Officer functions and all matters and actions relating to meetings, reports agendas, and minutes of Council, Cabinet, Cabinet Members and committees and sub committees in accordance with the Access to Information Procedure Rules, including: (a) Exclusion from public copies of agendas, reports etc of items not to be open to members of the public; and papers not open to Members;	<del>City Solicitor</del> <u>Members and Elections Team Manager</u> in all cases except:  (f) All Assistant Directors.

	<ul style="list-style-type: none"> <li>(b) Identification of background papers in the case of a report prepared by an elected or co-opted Member;</li> <li>(c) Supply of committee papers to the Press;</li> <li>(d) Preparation of summaries of minutes;</li> <li>(e) To produce a record of every decision taken at a meeting including decisions by individual Cabinet Members including a statement of: <ul style="list-style-type: none"> <li>(i) the reasons for the decision and alternative options considered and rejected</li> <li>(ii) any conflict of interest declared by any Cabinet Member, either in connection with a decision of Cabinet, or who is consulted by the Cabinet Member or employee making the decision; and</li> <li>(iii) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive;</li> </ul> </li> <li>(f) To produce a record of every executive decision taken by employees, including a statement of: <ul style="list-style-type: none"> <li>(i) the reasons for the decision;</li> <li>(ii) alternative options considered and rejected;</li> </ul> </li> <li>(g) Power of rectification of the record of decision;</li> <li>(h) Ensuring publication of notices containing details of key decisions /urgency provisions and private meetings of Cabinet;</li> <li>(i) Where permitted, making reports and other documents available for public inspection and on the Council's website; and</li> <li>(j) To consider and respond to representations from the public as to why an item of business of the Cabinet should be held in public.</li> </ul>	
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<b>Registration, Local Land Charges and Coroners Services</b>		
36	<p>General supervisory responsibility over births, marriages and deaths registration service including:</p> <p>(a) Acting as Proper Officer for the purposes of the registration service and the Registration Services Act 1953;</p> <p>(b) Making any necessary change to the service as result of directions or instructions from the General Register Office or changes imposed by statute; and</p> <p>(c) Authority to set, review, amend, or increase fees in connection with the births, marriages and deaths registration service (including fees for the approval and review process relating to secular and/or religious premises as venues for marriages and civil partnerships) and identify any areas for additional income generation.</p>	<p>(a) and (b): <u>City Solicitor Legal Services Manager(People) and Legal Services Manager (Place and Regulatory)</u></p> <p>(c): <u>City Solicitor Legal Services Manager(People) and Legal Services Manager (Place and Regulatory)</u>in consultation with Cabinet Member (Policing and Equalities)</p>
42	To maintain the Local Land Charges Register and to issue official search certificates.	<u>City Solicitor Legal Services Manager(People) and Legal Services Manager (Place and Regulatory)</u>
<b>Legal and Procedural Matters</b>		
45	Certification of photographic copies of documents and authentication of documents.	<u>City Solicitor Legal Services Manager(People) and Legal Services Manager (Place and Regulatory)</u>
<b>Miscellaneous</b>		
60	To exercise the powers and duties of the Council as Parish Trustee.	<u>City Solicitor Members and Elections Team Manager</u>
61	Keeping of the Roll of Freemen and Honorary Aldermen.	<u>City Solicitor Members and Elections Team Manager</u>
62	Deposit of documents with Proper Officer.	<u>City Solicitor Members and Elections Team Manager</u>
63	Certification of byelaws; and send copies of byelaws for parish records.	<u>City Solicitor Members and Elections Team Manager</u>

2.2.2 It is recommended that Sections 6.1 and 6.2 of Part 2M of the Constitution is amended as set out in the table in 2.2.1 above.

### 2.3 Delegation of City Solicitor/Monitoring Officer Functions

2.3.1 Set out below are the functions of the City Solicitor/Monitoring Officer which are specifically delegated to him/her, as set out in Section 6.5 of Part 2M of the Constitution. An additional column has been added to the table to show to which officer it is recommended that these functions should be delegated.

<b>Monitoring Officer Responsibilities</b>		<b>Proposed</b>	
1	Establish and maintain the register of interests of Coventry City Council, Allesley Parish Council and Keresley Parish Council Elected and Co-opted Members.	Deputy Monitoring Officer may be appointed.	Legal Services Manager (Place and Regulatory)
2	Deal with breaches of the Codes of Conduct for elected and Co-opted Members adopted by Coventry City Council, Allesley Parish Council and Keresley Parish Council in accordance with the Complaints Protocol as approved by the Ethics Committee.	Deputy Monitoring Officer may be appointed.	Legal Services Manager (Place and Regulatory)
3	To act as Proper Officer for the purpose of receiving requests for dispensations under section 33 of the Localism Act 2011.		Legal Services Manager (Place and Regulatory)
4	To determine requests for dispensations under section 33 of the Localism Act 2011, subject to the right of Members and Co-opted Members to request the Ethics Committee to review a determination not to grant a dispensation.		Legal Services Manager (Place and Regulatory)
<b>Constitution</b>			
5	Authority to make amendments and corrections to the Constitution where in his/her opinion, such amendment is to correct any anomaly or ambiguity is purely technical, to	In cases of doubt about whether the change is purely technical, the Monitoring Officer should consult with	Legal Services Manager (Place and Regulatory) and Legal Services Manager (People)

	correct a clear typographical or other error, to reflect any change in law or following a review (to include changes of officer or directorate descriptions), and such amendment does not materially alter the terms or practical operation of the Constitution.	either the Chief Executive or the Executive Director, Resources.	
6	To make necessary amendments to the Constitution, including the Rules for Contracts and its standing orders, to incorporate all requirements of the Member Code of Conduct and to amend the Rules of Contract to take account of changes in procurement practices and limits.	In consultation with the Cabinet Member (Policing and Equalities).	Legal Services Manager (Place and Regulatory) and Legal Services Manager (People)
7	To make minor amendments to the Constitution.	In consultation with the Cabinet Member (Policing and Equalities).	Legal Services Manager (Place and Regulatory) and Legal Services Manager (People)
<b>Legal Functions</b>			
8	Where any document is necessary to any legal procedure or proceedings on behalf of the Council, the authority to sign it personally or other person authorised by him/her unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.		Legal Services Manager (Place and Regulatory) and Legal Services Manager (People)
9	To instruct Counsel and external solicitors and engage professional experts and witnesses.		Legal Services Manager (Place and Regulatory) and Legal Services Manager (People)
10	To let contracts for the provision of services in compliance with the Rules for Contract and Financial Procedure Rules.		Legal Services Manager (Place and Regulatory) and Legal



			Services Manager (People)
11	To monitor and manage the contracted service and to take appropriate action under the contract to ensure service standards are maintained throughout the contract term.		Legal Services Manager (Place and Regulatory) and Legal Services Manager (People)

2.3.2 The functions set out in paragraphs 1 to 4 will become the responsibility of the Legal Services Manager (Place and Regulatory) as Acting Monitoring Officer. Responsibility for all of the other functions will be shared between the two existing Legal Services Managers.

2.3.3 It is recommended that Section 6.5 of Part 2M of the Constitution is amended in accordance with the table in 2.3.1 above.

2.3.4 Finally, in General Delegations to senior officers in Section 5 of Part 2M, there is a delegation at paragraph 5.25 *“to issue formal cautions where criminal offences are admitted”*. This power is exercised *“in conjunction with the City Solicitor”*. It is recommended that this be amended to read: *“in conjunction with the Legal Services Manager (Place and Regulatory) or the Legal Services Manager (People).”*

### **3. Results of consultation undertaken**

3.1 No consultation has been undertaken because the changes are required to ensure that the Council complies with its statutory duty to appoint a monitoring officer and to ensure that functions may be exercised at the appropriate level.

### **4. Timetable for implementing this decision**

4.1 The amendments need to take effect as soon as they are approved by Council.

### **5. Comments from the Executive Director of Resources**

5.1 Financial implications  
None.

5.2 Legal implications  
The Council must designate an officer as Monitoring Officer under Section 5 of the Local Government and Housing Act 1989. In addition only Council can appoint officers as proper officers and re-allocate delegated functions previously allocated to the City Solicitor/Monitoring Officer.

### **6. Other implications**

**6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

The Constitution sets out the governance arrangements of the Council and it is important that these reflect changes in operational matters within the Council.

**6.2 How is risk being managed?**

Having a Constitution that reflects changes in operational matters will ensure that the Council meets its legal obligations.

**6.3 What is the impact on the organisation?**

To put in place appropriate governance arrangements that reflect operational changes.

**6.4 Equalities / EIA**

None

**6.5 Implications for (or impact on) the environment**

None

**6.6 Implications for partner organisations?**

None

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