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Council

14 January, 2020

**Name of Cabinet Member:**

Cabinet Member for Policing and Equalities – Councillor A S Khan

**Director Approving Submission of the report:**

Chief Executive

**Ward(s) affected:**

Not applicable

**Title:**

Exercise of Emergency Functions - Appointment of Agricultural and Public Analysts

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**Is this a key decision?**

No

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**Executive Summary:**

The purpose of this report is to inform Council of decisions undertaken by the Chief Executive, in accordance with the Constitution and in consultation with the Leader of the Council, Councillor G Duggins, to exercise emergency functions in respect of the appointment of Agricultural Analysts (Fertilisers and Animal Feeding Stuffs) and Public Analysts (Food). The report also seeks to delegate authority to make any future appointments to the Director, Street Scene and Regulatory Services

**Recommendations:**

Council is recommended to:-

- 1) Note the exercise of emergency functions to appoint Kent Scientific Services, Hampshire Scientific Service, Public Analyst Scientific Services and Lancashire County Scientific Services as Agricultural and Public Analysts, and in particular the appointment of those individuals listed in Paragraph 2.1 of this report.
- 2) Delegate authority for any future appointments of Agricultural Analysts (Fertilisers and Animal Feeding Stuffs) and Public Analysts (Food) to the Director, Street Scene and Regulatory Services
- 3) Authorise the City Solicitor and Monitoring Officer to amend the Constitution accordingly.

**List of Appendices included:**

None

**Background papers:**

None

**Other useful documents**

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?**

No

**Will this report go to Council?**

Yes – 14 January, 2020

## **Report title: Exercise of Emergency Functions - Appointment of Agricultural and Public Analysts**

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

- 1.1 Agricultural and Public Analysts provide a wide range of scientific services to Local Authorities concerning their Trading Standards and Environmental Health enforcement roles particularly in relation to food standards and safety, fertilisers and animal feeding stuffs. Routine, complaint and Primary Authority food, fertiliser and animal feeding stuff samples are submitted to ascertain compositional standards, nutritional values, compliance with labelling, identification of additives and to establish the presence, source and identification of any contaminants. Formal food, feed and agricultural samples can only be analysed by a statutorily appointed Agricultural and Public Analyst.
- 1.2 By virtue of Section 5 of the Food Safety Act 1990 Coventry City Council is a food authority for the purposes of the Act. In accordance with Section 27 of the Food Safety Act 1990, every food authority must appoint one or more persons (in the Act referred to as "Public Analysts") to act as analysts for the purposes of the Act within the authority's area. An authority that appoints only one Public Analyst may also appoint a deputy to act during any vacancy in the office of Public Analyst, or during the absence, or incapacity of the holder of the office.
- 1.3 Section 67 of the Agriculture Act 1970 requires Metropolitan District Councils to enforce the provisions relating to fertilisers and animal feeding stuffs and to appoint an Agricultural Analyst and, if they think fit, one or more Deputy Agricultural Analysts.
- 1.4 Formal notification was received that the Council's current Agricultural and Public Analyst, Worcestershire Scientific Services, would cease to provide an Agricultural and Public Analyst service from 30 September 2019. The appointment of Agricultural and Public Analysts is a non-executive (ie Council function). The Council Meeting, to which approval would have been sought, was 26 November, 2019, which was cancelled. Approval would have been sought at the next scheduled meeting of the Council on 14 January, 2020 however an urgent evidential requirement in an ongoing case required the use of an appointed analyst in advance of that meeting.
- 1.5 There was therefore an urgent need to appoint Agricultural and Public Analysts for the purposes of Food Safety Act 1990, Food Safety (Sampling and Qualifications) (England) Regulations 2013, Food Safety and Hygiene (England) Regulations 2013. Agriculture Act 1970, Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015, Fertilisers (Sampling and Analysis) Regulations 1996, EC Fertiliser (England and Wales) Regulations 2006 and any other / subsequent legislation relating to these roles.
- 1.6 To ensure continuity of service, and provide more flexibility and efficiency, it was considered prudent to appoint several analysts to fulfil the duties imposed on the authority by the Food Safety Act 1990 and the Agriculture Act 1970. There are four official food and feed laboratories based in England and all have been appointed to undertake Agricultural and Public Analyst functions.

### **2. Options considered and recommended proposal**

- 2.1 The Chief Executive agreed that the circumstances outlined above constituted an emergency and approved the appointment of Kent Scientific Services, Hampshire Scientific Service, Public Analyst Scientific Services and Lancashire County Scientific Services as Agricultural and Public Analysts and, in particular, approved the appointment of the following personnel:

Kent Scientific Services

**Public Analyst and Agricultural Analyst**

**Mr Jonathon David Griffin** BSc (Hons) MChemA CChem MRSC DMS

**Public Analyst and Deputy Agricultural Analyst**

**Ms Carol Nicola Gibbons** MSc MChemA MRSC CSci FIFST

Hampshire Scientific Services

**Public Analysts and Deputy Agricultural Analysts**

**Ms Jennifer Ann Darrington Green** BSc MSc MChemA CChem MRSC

**Ms Rachael Ann New** BSc (Hons) MChemA CChem MRSC CSci

Public Analyst Scientific Services

**Public Analysts and Deputy Agricultural Analysts**

**Ms Michelle Evans** BSc MChemA MRSC

**Mr Kevin Wardle** MSc, MChemA CChem MRSC

**Ms Watney Elizabeth Moran** MSc, MChemA MBA CChem FRSC

**Mr Duncan Kenelm Arthur** BSc, MChemA CChem MRSC

**Mr Nigel Kenneth Payne** MSc, MChemA CChem MRSC

**Ms Joanne Hubbard** BSc, MChemA CChem MRSC

**Ms Lilian Emma Jane Downie** MChem, MChemA CChem MRSC

Lancashire County Scientific Services

**Public Analysts and Deputy Agricultural Analysts**

**Mrs. Bharathi Reddy** BSc(Hons), MChemA, MRSC

**Dr. Andrew Christopher Smith** BSc, PhD, MChemA, CSci, CChem, MRSC

**Mr Peter Leonard Mayes** MChemA, CChem, FRSC, MB

- 2.2 Going forward, it is proposed that, in order to ensure that the list of appointments is kept up to date and avoid regular reports to Council relating to such a small spend, any future appointments of Agricultural and Public Analysts is delegated to the Director, Street Scene and Regulatory Services. This is in line with the existing delegation for the appointment of Health and Safety inspectors.

**3. Results of consultation undertaken**

- 3.1 In accordance with the Constitution, the exercise of emergency functions was undertaken in consultation with the Leader of the Council, who confirmed his agreement to this course of action. Formal consultation is not required for the appointment of Agricultural and Public Analysts as the Council is legally obliged to make these appointments.

**4. Timetable for implementing this decision**

- 4.1 The decision to appoint Agricultural and Public Analysts has already been taken and implemented. The proposed delegation of power to appoint in the future would be effective from the date Council, if it agrees, makes that decision.

**5. Comments from Director of Finance and Corporate Services**

**5.1 Financial implications**

The statutory appointment of Agricultural and Public Analysts has no additional cost implication for the Local Authority. Any analytical work undertaken is generally charged for at an agreed price. The typical annual spend on these services is £2500.

The appointment of four laboratories will enable officers to submit samples to the cheapest laboratory (where possible) thereby reducing spend or enabling more samples to be taken.

## **5.2 Legal implications**

Part 2M of the City Council's Constitution provides for the Scheme of Functions delegated to Employees, including the Chief Executive/Head of Paid Service. Paragraph 3.8 of Part 2M enables the Chief Executive, in consultation with the Leader, to make decisions in an emergency.

The appointment of an Agricultural Analyst is governed by Section 112 of the Local Government Act 1972. The exercise of Section 112 powers is a non-executive function of the Council [see Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000].

The duty to appoint Public Analysts was introduced by the Food Safety Act 1990. The 2000 Regulations say that a Local Authority can decide whether the "appointment of any individual to any office other than an office in which they are employed by the authority" e.g. Public Analyst can be an executive or non-executive function. The Council's Constitution currently states that this is a non-executive (Council) function.

## **6. Other implications**

Due to the amount spent annually on food and feed samples, there is no need to go through a formal procurement process. Local processes will ensure value for money / service requirements are met.

### **6.1 How will this contribute to the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

The appointment of a Agricultural and Public Analysts helps promote a sustainable economy and improving the quality of life for Coventry people by Improving health and wellbeing through a healthier lifestyle.

### **6.2 How is risk being managed?**

The main risk is not to appoint Agricultural and Public Analysts as this is required by Section 67 of the Agriculture Act 1970 and Section 27 of the Food Safety Act 1990.

Official food and feed laboratories are appointed by the Food Standards Agency and Agricultural and Public Analyst must have certain qualifications to fulfil their functions.

The appointment of Agricultural and Public Analysts will allow the Council to have formal food and feed samples analysed, and in the more serious cases allow for the prosecution of offences.

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

The Council has a statutory duty to appoint Agricultural and Public Analysts and to enforce legislation such as the Food Safety Act 1990 and the Agricultural Act 1970. The duty to enforce is carried out by the Council including the Trading Standards team and is managed within existing resources.

#### **6.4 Equality and Consultation Analysis (ECA)**

Section 149 of the Equality Act 2010, known as the Public Sector Equality Duty, requires the Council to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people.

When making policy, delivering services or otherwise exercising its functions the Council must comply with the Public Sector Equality Duty, and have regard to the age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation of the citizens concerned.

The appointment of the Agricultural and Public Analysts will be those already employed by the official food and feed laboratories appointed by the Food Standards Agency.

#### **6.5 Implications for (or impact on) climate change and the environment**

There is no impact on climate change and the environment for the appointment of new Agricultural and Public Analysts as they are just fulfilling the same function as that previously provided by Worcestershire Scientific Services, with the exception that the samples will be transported further.

#### **6.6 Implications for partner organisations?**

No implications have been identified on partner organisations.

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**Directorate: Place**

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