

Report of the Chief Executive

Division and Local Member: N/A

Lead Officer & contact: Pat Flaherty, Chief Executive

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1. Summary

1.1. This report brings forward recommendations for:

- (a) A change in the appointment of the Council's Monitoring Officer. This change is initially for a 2 year period to coincide with the appointment of the County Council as the administering authority for the Heart of the South West Joint Committee.
- (b) The appointment of a post-holder to fill the newly established statutory role of Data Protection Officer.

The report also includes for information confirmation of a decision taken by the Chief Executive under delegated authority from the Council to agree a 6 month leave of absence from Council duties for Cllr Linda Oliver.

1.2. The statutory officer appointments have been brought to Full Council for confirmation because only Full Council has the power to allocate these roles to appropriate post-holders.

2. Recommendations

2.1 **Council is recommended to nominate:**

- (a) **The post of Service Manager (Executive) – currently held by Scott Wooldridge - as the Council's Monitoring Officer initially for a two year period and to be reviewed in advance of the February 2020 Council meeting;**
- (b) **The post of Service Manager – Information Governance – currently held by Peter Grogan – as the Council's Data Protection Officer with effect from 25th May 2018 – a new statutory post as defined by the EU General Data Protection Regulation 2016 (Articles 37-39).**

Council is also asked to note the action taken by the Chief Executive in agreeing a six month leave of absence from Council duties for Cllr Linda Oliver.

3. Background

Monitoring Officer

3.1 In February 2013 the Council agreed to the following allocations of the roles of Monitoring Officer and Deputy Monitoring Officer.

Monitoring Officer – the post of Strategic Manager, Governance and Risk – held then and now by Julian Gale

Deputy Monitoring Officer – the post of County Solicitor – held then and now by Honor Clarke.

These allocations followed a management restructuring and brought certainty to these appointments following temporary allocations of the roles during the restructuring process.

- 3.2** These posts have traditionally worked in tandem to cover the Monitoring Officer role. However, legally the Council can only have a single named officer in the role. Council in agreeing the allocations in 2013 agreed that they reflected the day to day operating arrangements of the Strategic Manager, Governance and Risk focusing on predominantly constitutional issues and the County Solicitor working alongside the Monitoring Officer as the chief legal adviser to the Council. The post-holders share the workload in relation to complaints made against members. The arrangements have worked well in the five years since the Council decision but recent developments in partnership working require a different approach at this time.
- 3.3** Members will be aware of the recent decision to establish a Heart of the South West Joint Committee and the appointment of this Council as the Administering Authority to run the Committee for a two year period from January 2018. This followed two years of partnership working on devolution within Devon and Somerset during which our Chief Executive was the governance theme lead for the project. The work related to the allocation of this important role to SCC has fallen mainly on the post held by Julian Gale who has played a key role for the partnership during that period in developing governance options and proposals to support the project. Ultimately this has resulted in the establishment of the Joint Committee on 22nd January 2018. The 19 authorities in agreeing to establish the Joint Committee agreed unanimously to appoint this Council as the Administering Authority for the Joint Committee for the next two years.
- 3.4** This appointment means that Julian's main focus for the next two years will be on providing 'Monitoring Officer' support to the Joint Committee as it moves forward with the approval and delivery of the Productivity Strategy for the Heart of the South West area. An additional aspect of this role will be to provide governance capacity and expertise in the discussions with government over the devolution agenda. It is unreasonable to expect Julian to undertake this additional work as well as the statutory Monitoring Officer role for the Council during this period. Julian's primary focus therefore for the next two years will be on partnership working at the highest level but as an employee of the Council and in accordance with paragraph 3.5 below.
- 3.5** In the short term it is proposed that the Monitoring Officer role is allocated to the post of Service Manager – Executive, Scott Wooldridge. Scott is one of Julian's two deputies covering both decision making and risk and is well positioned to take on the Monitoring Officer role for the period in question. The post of County Solicitor will continue to hold the Deputy

Monitoring Officer role and work alongside the Monitoring Officer. This will provide an important link back into the Council for the Joint Committee's governance arrangements and will give Scott access to Julian's knowledge and expertise on governance and constitutional matters.

- 3.6** For the period in question Julian's role will be amended to focus on partnership governance - as Strategic Manager – Partnership Governance - and he will be accountable to the Chief Executive as the Monitoring Officer and governance lead/lead officer for the Joint Committee and its supporting groups. He will continue to exercise the Monitoring Officer role for the Avon and Somerset Police and Crime Panel and should progress be made on establishing the Somerset Rivers Authority as a separate precepting authority Julian will be the lead officer for developing appropriate governance arrangements. Importantly, Julian will retain his links to the Democratic Services Team and will act in an advisory role to the Monitoring Officer on local authority governance and constitutional arrangements to support lawful, efficient and transparent decision making.
- 3.7** In the event that the role supporting the Joint Committee ends before the two year period is up then the position in relation to the Monitoring Officer position will be reviewed and a further report brought before the Council as necessary.

Data Protection Officer

- 3.8** There is a new requirement to nominate a post-holder to the statutory role of Data Protection Officer. This is required under EU-GDPR Section 4 Articles 37 – 39, specifically Article 37 (a) but other Articles (b) and (c) also support the appointment

37.1 The Controller and the processor shall designate a data protection officer in any case where:

- a) *The processing is carried out by a public authority, except for courts acting in their judicial capacity.....*

- 3.9** This new requirement follows a new regulation coming into force on the 25th May 2018 as part of the European Union harmonising data protection legislation across Europe.
- 3.10** The Service Manager - Information Governance post currently held by Peter Grogan is the appropriate post to hold this role within the organisation and hence the recommendation at paragraph 2.1 (b).

Leave of absence – Cllr Linda Oliver

- 3.11** This section of the report details a decision taken by the Chief Executive under delegated authority from the Council and which requires him to outline the decision for information to the next available meeting of the Council.
- 3.12** On the 21st December 2017 the Chief Executive approved a six month leave of absence from Council duties for Cllr Linda Oliver for personal reasons and to take effect from 1st January 2018. All members were

informed of this decision.

4. Consultations undertaken

4.1. As detailed in the report.

5. Implications

5.1. Legal and Business Risk:

The appointments proposed in this report will ensure the Council's compliance with the requirements to have posts allocated to the key statutory officer roles. There would be a significant legal risk to the Council in not having posts nominated to these statutory positions.

The risk of legal challenge and reputational damage will be high if Council fails to adopt adequate arrangements to ensure high standards of governance and probity amongst members and officers.

One key issue that will be kept under review is capacity within the Democratic Services Team. There needs to be sufficient capacity at all levels within the team to maintain high quality services to the Council and key partnerships in accordance with the required governance requirements. Additional senior officer capacity has recently been recruited in support primarily of the Police and Crime Panel and additional administrative support has been recruited in particular to support the Chair of Council and Julian Gale. The options for further increasing senior officer capacity within the team are currently being explored.

5.2. Financial: The changes outlined to the allocation of the Monitoring Officer role and associated posts are subject to the job evaluation process. Additional income to the team has resulted from taking on the administering authority roles for the Joint Committee and the Police and Crime Panel and it is intended to cover any additional costs from these income streams.

5.3. Other Impacts: The Council's duty under Section 149 of the Equality Act 2010 is to have "due regard" to the matters set out in relation to equalities when considering and making decisions on the provision of services. There are no direct impacts of these recommendations on the provision of services. There are no direct impacts on sustainability, health and safety, community safety or privacy aspects as a result of this proposal.

6. Background papers

6.1. None.

Note: For sight of individual background papers please contact the report author