

Designation of Monitoring Officer

Report of Angela Lax, Cabinet Member for Legal & Regulatory Services

Date:	14 December 2021
Agenda Item:	13
Contact Officer:	Christie Tims, Chief Operating Officer
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Key Decision?	NO
Local Ward Members	None



Council

1. Executive Summary

- 1.1 The Local Government and Housing Act (1989) obliges the Council to nominate one of its officers as its Monitoring Officer.
- 1.2 The previous Monitoring Officer, Christie Tims, Head of Governance and Performance was appointed as Chief Operating Officer from 1 December 2021.
- 1.3 As this new role has potential overlaps and deputises for the Head of Paid Service position, it is no longer compatible for Ms Tims to hold the statutory position of Monitoring Officer. Therefore the appointment of an interim Monitoring Officer has been recommended – Wendy Trainor.
- 1.4 The Appointments Committee has approved the appointment.

2. Recommendations

- 2.1 It is recommended that Council approves the designation of Wendy Trainor, as the interim Monitoring Officer.

3. Background

- 3.1 Section 5 of the Local Government and Housing Act 1989 says that 'shall be every duty of every [council] to designate one of their officers (to be known as 'The Monitoring Officer'). This is one of three 'statutory officers' with the other being a Head of Paid Service (here that is Simon Fletcher), and a S151 Officer (Anthony Thomas).
- 3.2 The Monitoring Officer has three main roles:
 - To report to Council on matters, decisions and actions that they believe are, or are likely to be, illegal or amount to maladministration;
 - To be responsible for matters relating to the conduct of Councillors and officers, in accordance with the Codes of Conduct for Members and for officers.
 - To be responsible for the maintenance and operation of the council's Constitution.
- 3.3 The Council has designated a Deputy Monitoring Officer, the Governance Manager, who can support the Monitoring Officer and has the authority to act in their absence.
- 3.4 Wendy is an experienced Monitoring Officer who has provided interim support for a number of councils. Other authorities including our shared legal service were approached to share the MO role, but could not do so at the current time.

3.5 The Appointment was considered and approved by the Appointments Committee on 10 December 2021.

Alternative Options	<p>Before appointing an Interim Monitoring Officer, alternative options were considered for the position including asking the current deputy to step up fully into the role as well as sharing a Monitoring Officer with another council.</p> <p>But it is felt that the number of complex and high profile projects required a more experienced and fully qualified legal officer to be in post. It was also essential that the Monitoring Officer should be attending Leadership Team so that they are at the centre of the decision formulating process and can advise on legal implications in a timely manner. None of the other Councils could offer this level of engagement from a shared Monitoring Officer at present.</p>
Consultation	Leadership Team and the Appointments Panel has been consulted on this proposal.
Financial Implications	There are no additional financial implications arising from this report.
Contribution to the Delivery of the Strategic Plan	Designating the Monitoring Officer is a statutory duty of the Council.
Equality, Diversity and Human Rights Implications	There are no such implications arising from this report.
Crime & Safety Issues	There are no such implications arising from this report.
GDPR/Privacy Impact Assessment	There is no requirement to complete a Privacy Impact Assessment because of this report.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	The Council does not appoint a Monitoring Officer	The Council is being asked to designate a Monitoring Officer so that we comply with our obligations.	Green

<p>Background documents Local Government and Housing Act 1989 Lichfield District Council Constitution</p>
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Appendix A

The Role of the Monitoring Officer

(a) Maintaining the Constitution

The Monitoring Officer will maintain an up to date version of the Constitution and ensure that it is widely available for consultation by members, officers, and the public.

(b) Ensuring Lawfulness and Fairness of Decision Making

After consulting the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council (in relation to a non-executive function) and to the Cabinet in relation to an executive function if he/she considers that any proposal, decision, or omission will give rise to unlawfulness or any decision or omission has given rise to maladministration. Such a report will have the effect of preventing the proposal or decision from being implemented until the report has been considered.

(c) Supporting the Audit and Member Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Member Standards Committee.

Notwithstanding any duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Audit and Member Standards Committee, for the purposes of investigation or determination of an allegation that a Councillor has failed to comply with the Code of Conduct for Members.

(d) Receiving Reports

The Monitoring Officer will receive and act on reports made by the Council's Audit and Member Standards Committee.

(e) Conducting Investigations

The Monitoring Officer will conduct investigations into matters as directed by or which fall within the jurisdiction of the Audit and Member Standards Committee and the Monitoring Officer and make reports or recommendations in respect of the same to the Audit and Member Standards Committee, in so doing the Monitoring Officer shall comply with any arrangements for such investigations as may be adopted by the Council.

(f) Proper Officer for Access to Information

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions, and relevant reports and background papers are made publicly available in accordance with legislation.

(g) Advising whether Cabinet Decisions are within the Budget and Policy Framework.

The Monitoring Officer will advise whether the decisions of the Cabinet are in accordance with the Council's budget and policy framework.

(h) 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.

(i) Restrictions on Post

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.