

# Designation of Monitoring Officer

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

Date:	12 April 2022
Agenda Item:	10
Contact Officer:	Christie Tims, Chief Operating Officer
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Key Decision?	NO
Local Ward Members	None



**Full 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, Wendy Trainor was appointed to the position on a temporary basis in December 2021 following appointment of Christie Tims, the previous Monitoring Officer, to Chief Operating Officer.

## 2. Recommendations

- 2.1 It is recommended that Council approves the designation of Mark Hooper, Governance Manager as the Monitoring Officer.
- 2.2 It is recommended that Council approves the designation of Christine Lewis, Principal Governance Officer as the Deputy 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 (currently 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 Governance Manager has fulfilled the duties as Deputy Monitoring Officer effectively since 2016 and is now ready to take on the role fully.
- 3.4 A suitable deputy has been identified from within the Governance team and will hold the authority to act in their absence. Christine Lewis, Principal Governance Officer has effectively maintained the constitution since 2018 and will undertake the Deputy Monitoring Officer role with support from the shared Legal Service.
- 3.5 The Appointment was considered and approved by the Appointments Committee on xx March 2022.

Alternative Options	<p>Before appointing an Interim Monitoring Officer, alternative options were considered for the position including a return to temporary staffing arrangements and sharing a Monitoring Officer with another council.</p> <p>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. Both the Governance Manager and Principal Governance officer are engaged with this activity and best placed to provide support in respect of decision making.</p> <p>None of the other Councils could offer this level of engagement from a shared Monitoring Officer at present. The Governance Manager has developed sufficiently to take on the role fully and with support the Principal Governance Officer can deputise in their absence.</p>
Consultation	Leadership Team and the Appointments Panel has been consulted on this proposal.
Financial Implications	There are additional financial implications in relation to remuneration for undertaking these duties and backfill arrangements for capacity to fulfil the requirements of the role effectively. These are all within existing budgets and will be factored into the development of the Target operating Model and staffing structures to support the core.
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</p> <p>Local Government and Housing Act 1989</p> <p>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 (Section 151 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 issued to all Councillors.

**(i) Restrictions on Post**

The Monitoring Officer cannot be the Chief Finance Officer (S151 Officer) or the Head of Paid Service.