

# Designation of Monitoring Officer

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

Date:	15 October 2019
Agenda Item:	14
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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, the former Head of Legal, Property and Democratic Services, left the employment of the Council on the 14 April 2019 and Christie Tims, Head of Corporate Services was appointed as Interim Monitoring Officer in April 2019.
- 1.3 Following amendments to the Head of Corporate Services post, we now seek the formal appointment of Ms Tims to the role of Monitoring Officer.

## 2. Recommendations

- 2.1 It is recommended that Council approves the designation of Christie Tims, Head of Corporate Services as the Monitoring Officer.

## 3. Background

- 3.1 Legislation specific to local government obliges councils to appoint three 'statutory officers': a Head of Paid Service (here that is Diane Tilley), a S151 Officer (Anthony Thomas) and a Monitoring Officer.
- 3.2 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').
- 3.3 The council is obliged to provide The Monitoring Officer with the staff, accommodation and other resources as required for the duties of The Monitoring Officer to be undertaken.
- 3.4 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.
- 3.5 The role of the Monitoring Officer, as described by the Constitution, is attached at Appendix A.
- 3.6 The Council has designated a Deputy Monitoring Officer, who can support the Monitoring Officer and has the authority to act in their absence.
- 3.7 Members will also be aware that the Council had three vacant Heads of Service positions. One of the roles has been merged with an existing Head of Service to create the Head of Economic Growth and

Development. Another is currently being advertised, Head of Operational Services. The Head of Legal, Property and Democratic Services has been deleted and the duties have been relocated elsewhere in the establishment.

- 3.8 Christie Tims has carried out the role for the last 6 months effectively. Following the review of the duties for the Head of Corporate Services it is now recommended that Council designates Christie Tims, as the Council's Monitoring Officer.

Alternative Options	Before appointing Ms Tims as Interim Monitoring Officer, all members of Leadership Team were considered for the position as was as was sharing a Monitoring Officer with another council.  But it is felt that the Monitoring Officer should be one of our own staff and a member of Leadership Team so that they are at the centre of the decision formulating process and can advise in a timely manner.
Consultation	Leadership Team 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

Background documents Local Government and Housing Act 1989 Lichfield District Council Constitution
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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.