

CANNOCK CHASE COUNCIL

COUNCIL

23 MAY 2007

REPORT OF THE CHIEF EXECUTIVE

APPOINTMENT OF MONITORING OFFICER

1. Purpose of Report

- 1.1 To designate an officer to undertake the duties of the Monitoring Officer from 1 June 2007 following the departure of the Head of Legal and Democratic Services.

2. Recommendation

- 2.1 That the Director of Governance be designated the Monitoring Officer from 1 June 2007.

3. Background

- 3.1 The role of the Monitoring Officer is a statutory position created by the Local Government and Housing Act 1989 (LGHA 1989) with additional duties specified in the Local Government Act 2000 (LGA 2000) and subsequent Regulations made under that Act.
- 3.2 The Monitoring Officer's duties include :
- a) ensuring the lawfulness of the Council's actions and reporting on illegality
 - b) promoting probity and high ethical standards throughout the Council
 - c) ensuring that decisions are taken in accordance with the principles of transparency, openness and accountability
 - d) being the principal adviser to the Standards Committee and the Parish Councils Standards Sub-committee
 - e) liaising with the Standards Board for England, the Local Government Ombudsman and Ethical Standards Officers on ethical and standards issues
 - f) investigating complaints that Members may have breached the statutory Code of Conduct for Members (if referred for local investigation by the Standards Board for England) or any other local Code or Protocol relating to Members and report the

outcome to the Standards Committee, Parish Councils Standards Sub-Committee or a hearing panel of either committee as appropriate.

g) appointing a Deputy Monitoring Officer

3.3 The current Monitoring Officer is the Head of Legal and Democratic Services who is leaving the Council on 31 May 2007.

4. Designating a Monitoring Officer

4.1 Section 5 of the LGHA 1989 states :

“5(1) It shall be the duty of every relevant authority

(a) to designate one of their officers (to be known as ‘the monitoring officer’) as the officer responsible for performing the duties imposed by this section ... ”

4.2 There is currently no statutory requirement that the officer designated as the Monitoring Officer should be legally qualified although, given the nature of the duties to be undertaken, a knowledge of the law relating to local government does assist in carrying out those duties.

5. Proposal

5.1 It is proposed that the Director of Governance be designated as the officer to undertake the role of Monitoring Officer. Philip Lloyd-Williams, who has been appointed as the Director of Governance, is a qualified solicitor whose duties at his current employer, Tamworth Borough Council, include that of Monitoring Officer. He is therefore experienced in undertaking the role of Monitoring Officer and it is considered appropriate that he should be designated the Monitoring Officer.

5.2 However, the Director of Governance will not be taking up his post with the Council until 16 July 2007 and it is necessary therefore to make arrangements during the interim period following the departure of the Head of Legal and Democratic Services.

5.3 Agreement has been reached between the Chief Executive and the Chief Executive of Tamworth Borough Council that Philip Lloyd-Williams be seconded to Cannock Chase Council for up to one day a week to enable him to fulfil the Monitoring Officer role for this Council from 1 June 2007. This is on the basis that there will be a reciprocal arrangement after 16 July 2007 pending Tamworth Borough Council making its own arrangements.

5.4 The Director of Governance will also undertake the duties associated with the position of Solicitor to the Council

6. Human Rights Act Implications

6.1 There are no identified Human Rights Act implications arising directly from this report.

7. Data Protection Act Implications

7.1 There are no identified Data Protection Act Implications arising from this report.

8. Risk Management Implications

8.1 There is a statutory requirement to designate an officer to act as the Council's Monitoring Officer and, if no such designation was made, the Council would be in breach of the legislation.

8.2 In addition, the Council's governance structure would be incomplete without such a designated post which would give rise to a variety of issues from conditional reports from the External Auditors to lack of advice to Members in connection with Code of Conduct issues and an inability to deal with complaints against Members passed for local investigation.

8.3 Making the designation addresses all these issues.

9. Human Resources Implications

9.1 There are no identified Human Resources Implications arising directly from this Report.

10. Legal Implications

10.1 Section 113 (1) of the Local Government Act 1972 (LGA 1972) provides that

"a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, of the services of officers employed by the former, but shall not enter into any such an agreement with respect to any officer without consulting with him."

11. Financial Implications

11.1 There are no identified Financial Implications arising directly from this Report.