

## BOROUGH OF KETTERING

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<b>Report Originator</b>	Lisa Hyde Executive Director	<i>Fwd Plan Ref No:</i>	
<b>Wards Affected</b>	All	19 <sup>th</sup> July 2017	
<b>Title</b>	<b>STATUTORY OFFICER DESIGNATIONS</b>		

### 1. PURPOSE OF REPORT

To formally approve a number of changes to Statutory Officer and Proper Officer designations to enable the Council to comply with legislative requirements.

### 2. INFORMATION

- 2.1 The Council has three key statutory officer posts for which Council must formally approve which officers are designated into which posts. The three posts are: -
- Head of Paid Service
  - Statutory Finance Officer (s151)
  - Monitoring Officer
- 2.2 In addition to the above, the Council must also make appointments for the roles of Returning Officer, Electoral Registration Officer and identify a Proper Officer specifically responsible for Information Governance, which includes Data Protection and Freedom of Information.
- 2.3 The following sections of this report consider each of these in turn.

### 3. HEAD OF PAID SERVICE

- 3.1 The Council considered a report at its meeting of 14<sup>th</sup> December 2016 which approved a number of changes as a result of the Chief Executive post being deleted and the Managing Director post being created. In that report, the Council approved that:

*'That the Proper Officer Functions that are currently with the Chief Executive in the Council Constitution, become the responsibility of the Managing Director with effect from June 2017'*

- 3.2 The Proper Officer Functions that are referred to above are as follows:
- a) Head of Paid Service
  - b) Functions relating to the electoral process

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- c) Any Proper Officer Functions not falling within the responsibility of any other officer.

3.3 The above changes have now been enacted.

#### **4. RETURNING OFFICER**

- 4.1 Although the Proper Officer Functions for the Managing Director include 'functions relating to the electoral process' – it is sensible for the Council to have a specific resolution about the statutory role of Returning Officer.
- 4.2 Section 35(1) of the Representation of the People Act 1983 requires every district / borough council to appoint a Returning Officer. The role is to ensure that the elections are administered effectively and that, as a result, the experience of voters and those standing for election is a positive one.
- 4.3 The Returning Officer is personally responsible for the administration of local government elections, including nominations, the provision of polling stations, the appointment of presiding officers and poll clerks, management of the postal voting process and the verification and counting of votes.
- 4.4 The role of Returning Officer is commonly held by the Head of Paid Service of a local council. The employment of a Returning Officer is however completely separate from that of Head of Paid Service – they are directly accountable to the courts and are not bound by the council's normal procedures when carrying out their duties.
- 4.5 Section 8. (2.) (1) of the Representation of the People Act 1983 also requires each Council to appoint an officer of the Council to be the Electoral Registration Officer. It is common practice that the person who is the Returning Officer is also appointed the Electoral Registration Officer – it is considered beneficial for both roles to be undertaken by the same person because of the close relationship between them. To be appointed as either the Returning Officer or the Electoral Registration Officer, the person needs to be an employee of the council.
- 4.6 Additionally, members are asked to note that the appointment as Registration Officer (rather than Returning Officer) will also mean that the incumbent is also designated the Acting Returning Officer for Parliamentary Elections for the Kettering Constituency. (Representation of the People Act 1983 Section 28 (2) (b) refers).
- 4.7 It is recommended that the Council's Managing Director, Graham Soulsby, be appointed as the Returning Officer and Electoral Registration Officer with immediate effect.
- 4.8 The same arrangements will be operated (as in previous years) in relation to Returning Officer fees and Insurance arrangements.

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### **5. STATUTORY FINANCE OFFICER**

- 5.1 The Council must appoint a Statutory Finance Officer to ensure that it complies with s151 of the Local Government Act 1972 and s114 of the Local Government Act 1988.
- 5.2 This role is currently undertaken by Graham Soulsby. However, given that Mr Soulsby is now the Council's Head of Paid Service, another officer needs to be appointed into this statutory role. The Council Constitution is very clear that the same officer cannot hold both the designation of 'Head of Paid Service' and 'Statutory Finance Officer'.
- 5.3 At present the Deputy Statutory Finance Officer is Mark Dickenson.
- 5.4 Mr Dickenson has undertaken the deputy role for a number of years and has the necessary professional qualifications and experience to now take up the role of Statutory Finance Officer.
- 5.5 It is therefore recommended that the Council's Head of Resources, Mark Dickenson be appointed as the Statutory Finance Officer immediate effect.
- 5.6 Mr Dickenson will be responsible for appointing his own Deputy Statutory Finance Officer.

### **6. MONITORING OFFICER**

- 6.1 The Council must appoint a Monitoring Officer to ensure that it complies with statutory requirements. The Monitoring Officer is a statutory appointment pursuant to s5 of the Local Government & Housing Act 1989, and should be a senior member of staff.
- 6.2 Currently, the Council's Monitoring Officer is the Head of Democratic & Legal, Ms Sue Lyons.
- 6.3 Members may be aware that Ms Lyons has recently tendered her resignation from the Council and will be leaving the employment of the authority in September. To that end the council needs to appoint another officer to be Monitoring Officer, effective from 1<sup>st</sup> September 2017.
- 6.4 Given the importance of this statutory role, it is recommended to the council that the designation is taken up by one of the Executive Directors. This will be reviewed in due course when a replacement of the Head of Democratic & Legal Services is recruited / appointed. Accordingly, it is recommended to council that Executive Director Martin Hammond is appointed Monitoring Officer with effect from 1<sup>st</sup> September 2017.

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- 6.5 Martin Hammond will be responsible for appointing his own Deputy Monitoring Officer.
- 6.6 Sue Lyons also has a number of proper officer functions (i.e. those delegated statutory powers she holds as Head of Legal and Democratic Services). These will, in the short term, need exercising by other named persons. A schedule is attached at **Appendix 1** proposing a short term allocation of those functions between officers of the Council, until such time as a permanent appointment is made of principal legal adviser to the Council.

### **7. INFORMATION GOVERNANCE**

- 7.1 The Council must identify a Proper Officer function for Data Protection and Freedom of Information. The constitution currently delegates this function to the Head of Customer Services. The functions of work relating to this subject were transferred from Customer Services to the Executive Support Team in 2016; therefore, it is recommended that this delegation is transferred to the Executive Director, Lisa Hyde.

### **8. LEGAL IMPLICATIONS**

- 8.1 As outlined in the report.

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## 9. RECOMMENDATIONS

That the Council: -

- 9.1 Appoint Mr Graham Soulsby as Returning Officer under the provisions of section 41 of the Local Government Act 1972 and all related legislation with immediate effect;
- 9.2 Appoint Mr Graham Soulsby as Electoral Registration Officer under the provisions of the Representation of the People Act 1983 and all related legislation with immediate effect;
- 9.3 Appoint Mr Mark Dickenson as Statutory Finance Officer under the provisions of s151 of the Local Government Act 1972 and s114 of the Local Government Act 1988 with immediate effect;
- 9.4 Appoint Mr Martin Hammond as the Council's Monitoring Officer under the provisions of s5 of the Local Government & Housing Act 1989) with effect from 1<sup>st</sup> September 2017.
- 9.5 Approve the re-allocation of Proper Officer functions as set out in the attached schedule at Appendix 1.

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Background Papers:

Title

Date

Contact Officer

Previous Minutes/Reports:

Ref:

Date:

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**Appendix 1**

**PROPER OFFICER FUNCTIONS**

<b>Existing Function</b>		<b>Allocation to:-</b>
<b>- HEAD OF DEMOCRATIC AND LEGAL SERVICES</b>		
<b>Constitutional functions</b>		Executive Director (MH)
<b>Receipt/authentication/certification/signature/sealing of documents including as parish trustee for a parish meeting</b>		Any Member of the Strategic Management Team or their authorised nominee
<b>Property management functions</b>		Head of Resources (permanent change)
<b>Any specific delegated function which refers to the need to consult the Head of Legal and Democratic Services</b>		To read Executive Director (MH) and Senior Property Lawyer
<b>Existing Function</b>		<b>Allocation to:-</b>
<b>- HEAD OF CUSTOMER SERVICES</b>		
<b>Data Protection</b>		Executive Director (LJH)
<b>Freedom of Information</b>		Executive Director (LJH)