

**Report to** Council  
17 December 2013  
**Report of** Chief executive  
**Subject** Statutory Officers

---

**Item**

**4**

### **Purpose**

To consider the appointment of statutory officers and the relevant changes to the constitution.

### **Recommendation**

Subject to cabinet recommendation, to make the proposed statutory appointments and the required changes to the constitution, to take effect from the 1 February 2014

### **Corporate and service priorities**

The report helps to meet the corporate priority “value for money services”

### **Financial implications**

There are no direct financial implications

**Ward/s** All wards

**Cabinet member** Councillor Arthur – leader of the council

### **Contact officers**

Laura McGillivray, chief executive

01603 212001

### **Background documents**

None

## **Report**

1. On the 9 October cabinet agreed that further work should be carried out to progress the proposed savings and income options for 2014/15. This work was to include employee consultation where required. Cabinet also agreed to carry out public consultation on the council's overall approach to the development of the budget for 2014/15.
2. The vast majority of the final income and savings proposals will be considered as part of the formal budget setting process in January and February alongside the results of the overall public consultation on the development of the budget.
3. However, one proposal relates to a change in senior management and a redistribution of the existing responsibilities. It was not referred to in the public consultation as this is an internal change which does not affect the public and is confidential.
4. The proposal will be considered at cabinet on 11 December, 2013. This includes changes in statutory posts and a number of changes in the constitution in terms of overall responsibilities, which are summarised in annex A.
5. Further changes to responsibilities as part of this proposal are summarised in annex B.

**Proposed appointments to statutory posts and other changes to the constitution from this proposal to take effect from 1 February 2014.**

**Section 1 - Statutory posts**

- To appoint Laura McGillivray (chief executive) as the returning officer
- To appoint Russell O'Keefe (executive head of strategy, people and democracy) as the electoral registration officer
- To appoint Pam Carey (solicitor) from NPLaw as the monitoring officer (see section 3 below for updated monitoring officer protocol)

**Section 2- Other changes to responsibilities within the constitution**

- To maintain the constitution under the Local Government Act 2000 including responsibility for convening council and committee meetings and application of the procedures etc - now to be the overall responsibility of the executive head of strategy, people and democracy
- To maintain the register of members' Interests – now to be the overall responsibility of the executive head of strategy, people and democracy
- To act as the proper officer for the preparation, publication and retention of records of decisions taken by or on behalf of the council and the cabinet - now to be the overall responsibility of the executive head of strategy, people and democracy
- To act as proper officer for the Freedom of Information Act 2000 - now to be the overall responsibility of the executive head of strategy, people and democracy
- To act as proper officer for the Data Protection Act 1998- now to be the overall responsibility of the executive head of business relationship management (Anton Bull).
- To have responsibility for settling claims against the council - now to be the overall responsibility of the chief finance officer (Caroline Ryba).
- Any statutory responsibilities not assigned to another post - now to be the overall responsibility of the chief executive.
- NPLaw client side monitoring and management including instituting and defending legal proceedings etc - now to be the overall responsibility of the executive head of business relationship management

**Section 3 – updated monitoring officer protocol (in line with changes above)**

- 1.1 The monitoring officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. This protocol and governance arrangements provides some general information on how those statutory

requirements will be discharged at Norwich City Council (see also Article 12).

- 1.2 The responsibilities of the monitoring officer's and the deputy monitoring officer's roles rest with Pam Carey and the other nominated officers at NPLaw , the council's shared legal service, who undertakes to discharge his/her statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the council. In doing so s/he will also safeguard, so far as is possible, members and officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 1.3 The main functions of the monitoring officer are:
  - (a) Following consultation (wherever possible) with the chief executive (as head of paid service) and the chief finance officer, to report to the council and to the cabinet in any case where s/he is of the opinion that any proposal or decision of the authority has given rise to, or is likely to, or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989; (LGHA 89).
  - (b) To investigate any matter which s/he has reason to believe may constitute, or where s/he has received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89.
  - (c) To investigate complaints against members in regards to the code of conduct and in accordance with the council's standards provisions.
  - (d) To undertake, with others, investigations in accordance with the council's whistleblowing procedures.
  - (e) Providing urgent dispensations for members' interests.

## **2. Working arrangements**

- 2.1 It is important that members and officers work together to promote good governance within the Council. The Monitoring officer plays a key role in this and it is vital therefore, that members and officers work with the Monitoring officer to enable them to discharge their statutory responsibilities and other duties as set out in the constitution.
- 2.2 The following arrangements and understandings between the Monitoring officer, members and the Corporate Leadership Team are designed to ensure the effective discharge of the Council's business and functions. The Monitoring officer will:
  - (a) Be alerted to any issue(s) of governance that may be of concern to members and officers, including in particular, issues concerning the legal power to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that they are aware of or are likely to arise.
  - (b) Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision

where one should have been taken) at or before the Council, Cabinet, committee meetings and/or Service (or equivalent arrangements).

- (c) Have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take such a decision where one should have been taken) at or before the Council, Cabinet, committee meetings and/or Service (or equivalent arrangements).
- (d) In carrying out any investigation(s) have unqualified access to any information held by the Council and to any member or officer who can assist in the discharge of his/her functions.
- (e) Ensure the other statutory officers, Chief executive as Head of Paid Service and the Chief finance officer (otherwise known as Section 151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
- (f) Meet regularly with the Chief executive and the Chief finance officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal ethical standards, probity, propriety, procedural or other constitutional issues that arise or are likely to arise (discharged through the Corporate Governance Working Group).
- (g) In accordance with statutory requirements, make a report to the Council as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions.
- (h) Have an appropriate relationship with the Leader of the Council, Group Leaders and the Chair of Standards and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business.
- (I) Give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Standards Committee) and, if appropriate, make a written report to the Standards Committee.
- (J) In consultation, as necessary, with the Leader of the Council, Group Leaders and Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved.
- (K) Subject to the approval of the Standards Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues.
- (L) Advise on all applications from Council employees (or prospective employees) for exemption from political restriction in respect of their posts and where appropriate sign the certificate of opinion required by the independent adjudicator.

- 2.3 To ensure the effective and efficient discharge of the arrangements set out above, members and officers as soon as reasonably practicable will report to the Monitoring officer any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns of which they are aware.
- 2.4 The Monitoring officer will seek to resolve potential reportable incidents by avoiding the illegality etc, or by identifying alternative and legitimate mean of achieving the objective of the proposal.
- 2.5 Where the Monitoring officer receives a complaint of a potential reportable incident, s/he shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology.
- 2.6 However, it is recognised that the Monitoring officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
- 2.7 In appropriate cases, the Monitoring officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.
- 2.8 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring officer shall be entitled to add his/her written advice to the report of any other officer of the authority.
- 2.9 Notwithstanding the above, the Monitoring officer retains the right in all cases to make a statutory report where, after consultation with the Chief executive and the Chief finance officer, s/he is of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring officer may refer matters to the Police for investigation.
- 2.10 The Monitoring officer is available for members and officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg Standing Orders, policy framework, terms of reference, scheme of delegations etc).
- 2.11 To ensure the effective and efficient discharge of this protocol, the Chief finance officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Monitoring officer.

**Other changes in responsibilities to take effect from 1 February 2014.**

- To be the city clerk - now to be the overall responsibility of the chief executive
- To carry out the day to day liaison with the monitoring officer and be the designated post that the monitoring officer reports to - now to be the overall responsibility of the executive head of strategy, people and democracy
- To have responsibility for responding to any complaints made to the Local Government Ombudsman including complaints to the Housing Ombudsman - now to be the overall responsibility of the executive head of customers, communications and culture (Nikki Rotsos).
- To be the Disclosure and Barring Service lead signatory - now to be the overall responsibility of the executive head of strategy, people and democracy.

## Integrated impact assessment



**NORWICH**  
City Council

The IIA should assess **the impact of the recommendation** being made by the report

Detailed guidance to help with completing the assessment can be found [here](#). Delete this row after completion

### Report author to complete

<b>Committee:</b>	Council
<b>Committee date:</b>	17 December 13
<b>Head of service:</b>	Laura McGillivray
<b>Report subject:</b>	Statutory Officers
<b>Date assessed:</b>	28 November 2013
<b>Description:</b>	To consider the appointment of statutory officers and the relevant changes to the constitution.



	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other departments and services e.g. office facilities, customer contact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Economic development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Health and well being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**Recommendations from impact assessment**

**Positive**

**Negative**

**Neutral**

**Issues**