

Report for: Staffing & Remuneration Committee 16 March 2021/ Standards Committee June 2021

Title: Appointment arrangements for the Monitoring Officer

Report authorised by : Dan Paul Chief People Officer/ John Jones – Interim Monitoring Officer

Lead Officer: Ian Morgan – Reward Strategy Manager

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key

1. Describe the issue under consideration

This report proposes to amend the Constitution to ensure that members remain responsible for taking steps for the appointment of the Monitoring Officer and to ensure the Monitoring Officer is correctly referred to within the Constitution.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

3.1 That the Committee recommend to the Full Council meeting in July to agree amendments to the following parts of the Constitution:

3.1.1 Part Two – Articles (Appendix 1).

3.1.2 Part Three Section E Part 1 – Officer Scheme of Delegation (Appendix 2).

3.1.3 Part Three Section E Part 2 – General Delegations to Directors (Appendix 3).

3.1.4 Part Three Section E Part 1 – Delegations to the Chief Executive and Statutory Officers (Appendix 4).

3.1.5 Part Four Section K – Officer Employment Procedure Rules (Appendix 5).

4. Reason for Decision

4.1 The Council has a number of statutory obligations and powers regarding the appointment and dismissal of its most senior officers, codified in the above parts of the Constitution.

- 4.2 On 2 November 2020, the Staffing & Remuneration Committee considered changes to the role of the Assistant Director of Corporate Governance, which then included the statutory Monitoring Officer function. As a result, the role of the Assistant Director of Corporate Governance was deleted. The Monitoring Officer role became a Head of Service post.
- 4.3 This meant that the Monitoring Officer inadvertently fell outside the steps to be taken by members in relation to appointments of chief officers.
- 4.4 The relevant steps are set out in Part 4 Section K of the Constitution. This part is currently phrased so as to apply to the “Recruitment of the Head of Paid Service and Directors”. “Director” has the meaning given at Part 3 Section E Section 1 paragraph 2.01 of the Constitution and include Assistant Directors.
- 4.5 Therefore, the Monitoring Officer previously fell within this definition when part of the role of Assistant Director of Corporate Governance. However, it has now fallen outside of the definition as a result of becoming a Head of Service post.
- 4.6 It is proposed to amend the Constitution so as to include reference to Statutory Officers in Part 4 Section K of the Constitution. The Statutory Officers are defined in Part 3 Section E Section 1 paragraph 2.01 of the Constitution and include the following:
- The S151 Chief Finance Officer (This role is held by *the Director of Finance*)
 - The Monitoring Officer
 - The Director of Adult’s Services
 - The Director of Children’s Services
 - The Director of Public Health
- 4.7 Therefore, all of the above Statutory Officers except the Monitoring Officer currently fall within Part 4 Section K as a result of being Directors. Accordingly, the proposed amendments will not alter the position as regards those officers. The only change resulting from the inclusion of Statutory Officers will be that the Monitoring Officer will again fall back within these provisions.
- 4.8 It is also proposed to correct:
- 4.8.1 References to the Assistant Director of Corporate Governance in the above parts of the Constitution that should now be amended to refer to the Monitoring Officer in order to reflect the deletion of the role of the Assistant Director of Corporate Governance.
- 4.8.2 A typographical error in Part Three Section E Part 2 – General Delegations to Directors (Appendix 3). A reference to paragraph 14.04 of the Articles is

proposed to be amended to paragraph 13.04 because paragraph 14.04 does not exist.

4.9 The proposed changes will ensure continuity in terms of Members' powers in relation to the appointment of the Monitoring Officer and references within the Constitution that are intended to be to the Monitoring Officer.

4.10 Changes to the Constitution are approved by the Full Council on the recommendation of the Standards Committee, in accordance with Article 14.03 of the Constitution. It is good practice to also consult with the relevant Committee, in this case the Staffing and Remuneration Committee, to obtain the Committee's views on the proposal.

5. Alternative options considered

5.1 The alternative would be to maintain the current definitions in the Constitution. However, this would contravene the legal requirements set out below. It would also risk confusion because the role of the Assistant Director of Corporate Governance no longer exists.

6. Background

6.1 The Council has a duty to appoint a monitoring officer by virtue of section 5 of the Local Government and Housing Act 1989.

6.2 The Council's standing orders must incorporate certain provisions in respect of the appointment of its monitoring officer, by virtue of the Local Authorities (Standing Orders) Regulations 1993/202.

6.3 These provisions are contained in Part Four Section K of the Constitution.

6.4 Therefore, the Constitution will not comply with this legal requirement unless Part Four Section K is amended to include reference to the Monitoring Officer rather than the Assistant Director of Corporate Governance.

7. Contribution to strategic outcomes

7.1 Ensuring that the definition of member appointments is clear supports the Council's commitment to fair and transparent recruitment practice.

8. Statutory Officers' comments

8.1 Chief Finance Officer

There are no financial implications arising from the recommendations apart from minor administration changes.

8.2 Monitoring Officer

The legal implications are set out within the body of this report.

9. Use of Appendices

9.1.1 Appendix 1: Part Two – Articles

9.1.2 Appendix 2: Part Three Section E Part 1 – Officer Scheme of Delegation

9.1.3 Appendix 3: Part Three Section E Part 2 – General Delegations to Directors

9.1.4 Appendix 4: Part Three Section E Part 1 – Delegations to the Chief Executive and Statutory Officers

9.1.5 Appendix 5: Part Four Section K – Officer Employment Procedure Rules

10. Local government (Access to Information) Act 1985

10.1 Report for the Staffing and Remuneration Committee, 2nd November 2020: Changes to the role of Assistant Director Corporate Governance, which can be found at:

<https://www.minutes.haringey.gov.uk/documents/s118996/ChangestoroleofADCorporateGovernancePublicreport.pdf>