

EAST RENFREWSHIRE COUNCIL15 December 2021Report by Chief ExecutiveDESIGNATION OF MONITORING OFFICER**PURPOSE OF REPORT**

1. To propose that the Chief Officer – Legal and Procurement should be designated the Council's Monitoring Officer in terms of Section 5 of Local Government and Housing Act 1989 (the 1989 Act).

**RECOMMENDATIONS**

2. It is recommended that the Council agree to designate the Chief Officer – Legal and Procurement as Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989 from 31<sup>st</sup> January 2021.

**BACKGROUND**

3. Following the retirement of the Solicitor to the Council in 2010, the Deputy Chief Executive was appointed as the Council's Monitoring Officer. Given the retirement in January 2022 of the Deputy Chief Executive, Ms Innes, it will now be necessary to designate another senior officer to perform this role.

4. In terms of Section 5(7) of the 1989 Act, the Monitoring Officer may appoint a deputy to act in their absence. Ms Innes appointed Mr Gerry Mahon, Chief Officer Legal and Procurement, as her deputy. During her time as Monitoring Officer, Ms Innes has relied on the advice and support of her Deputy, who she has worked with closely.

**REPORT**

5. In terms of Section 5 of the Local Government and Housing Act 1989, every Council must designate one of its officers to hold the statutory office of Monitoring Officer. The responsibilities of the Monitoring Officer are as prescribed by the 1989 Act. The principal duty of the Monitoring Officer is to report to the Council where they consider that a proposed decision, action or omission has given rise to or is likely to give rise to maladministration or a contravention of any enactment or rule of law. The Monitoring Officer also has responsibilities in supporting the ethical framework. The Monitoring Officer may not be the Council's Chief Financial Officer (i.e. the Director of Finance).

6. It is proposed that the Chief Officer - Legal and Procurement should be designated as the Monitoring Officer. The Chief Executive and the newly appointed Director of Business Operations and Partnerships, Ms Louise Pringle will review the best way to support the Monitoring officer role from within their departments.

7. Mr Mahon has gained considerable experience when acting as Deputy Monitoring Officer. He is regularly involved with the SOLAR Monitoring Officer Group. Whilst the role of the Monitoring Officer does not have to be undertaken by a lawyer, in practise in many councils the most senior lawyer in the council holds the post.

8. It is not expected that Mr Mahon would require to appoint a Deputy Monitoring Officer. However, that option could be considered later in consultation with the Chief Executive.

#### **FINANCE AND EFFICIENCY**

9. There will be no financial or efficiency implications in relation to the proposal for the Monitoring Officer role.

#### **CONSULTATION**

10. There is no requirement for consultation in relation to the proposal.

#### **PARTNERSHIP WORKING**

11. There are no implications for partnership working in relation to the proposal.

#### **IMPLICATIONS OF THE PROPOSALS**

12. The proposal will ensure that the Council complies with its statutory obligation to designate a Monitoring Officer.

#### **RECOMMENDATIONS**

13. It is recommended that the Council agree to designate the Chief Officer – Legal and Procurement as Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989 from 31<sup>st</sup> January 2021.

#### **REPORT AUTHOR**

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#### **BACKGROUND PAPERS**

There are no background papers.

#### **KEY WORDS**

A report to recommend the designation of the Chief Officer Legal and Procurement as the Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989.

Monitoring Officer; Chief Officer Legal and Procurement; designation