

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

COUNCIL

29 MARCH 2018

REPORT OF DIRECTOR OF FINANCE AND CORPORATE SERVICES

Matter for Decision

Wards Affected: All

DESIGNATE APPOINTMENT OF NEW HEAD OF LEGAL SERVICES AS MONITORING OFFICER AND TO SEEK APPROVAL TO GRANT DELEGATED AUTHORITY TO APPOINT A DEPUTY MONITORING OFFICER.

Purpose of the Report

1. To designate Marcus Craig Griffiths as Neath Port Talbot County Borough Council's ("the Council") Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and to seek delegated authority to appoint Deputy Monitoring Officers to exercise the powers of Monitoring Officer in the absence or illness of the Monitoring Officer. Amendments will need to be made to Constitution of Neath Port Talbot County Borough Council ("the Constitution") to record these decisions.

Background

2. In accordance with the Constitution, the role of Monitoring Officer is undertaken by the Council's Head of Legal Services.
3. The role of the Monitoring Officer is varied, but includes amongst other things the responsibility to report to the Council and to the Executive in any case where they are of the opinion that any proposal or decision of the Council has given rise to or is likely to or would give rise to any illegality, maladministration or breach of

statutory code and 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 in respect of illegality, maladministration or breach of statutory code.

4. The current Head of Legal Services and Monitoring Officer, Mr David Michael will retire from this Council on the 31st March 2018.
5. On the 1st April 2018, Marcus Craig Griffiths will assume the role of Head of Legal Services, following appointment on the 15th December 2017. This report therefore seeks to designate the appointment of Marcus Craig Griffiths as Monitoring Officer following this appointment.
6. Members will note that Article 4.01(10) provides that it is the responsibility of full Council to designate an officer as the Monitoring Officer to ensure compliance with the Local Government and Housing Act 1989.
7. The current Deputy Monitoring Officer is absent from the office at present and therefore to ensure any obligations can be met in the absence of the Monitoring Officer, this report also seeks authority for the Head of Legal Services to appoint a deputy that shall be capable of exercising the powers of Monitoring Officer in the absence of the Head of Legal Services/Monitoring Officer. To implement this, an amendment will need to be made to the Constitution, the details of which are set out in Appendix 1 of this Report.

Financial Impact

8. There are no financial impacts associated with this Report.

Equality Impact Assessment

9. There are no equality impacts associated with this Report

Workforce Impacts

10. There are no workforce impacts associated with this Report

Legal Impacts

11. Section 5(1) of the Local Government and Housing Act 1989 provides that it is duty of this Council to designate one of their officers as the Monitoring Officer. Section 5(7) of the Local Government and Housing Act 1989 provides that it is the duty of the Monitoring Officer to perform any obligations personally, or where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.

Consultation

12. There is no requirement under the Constitution for external consultation on this item.

Recommendations

13. It is recommended that:
- 1) Marcus Craig Griffiths be designated as the Council's Monitoring Officer for the purposes of the Local Government and Housing Act 1989 and be entitled to exercise all powers delegated to the Monitoring Officer under the Constitution of Neath Port Talbot County Borough Council and the powers open to the Monitoring Officer under the Local Government and Housing Act 1989;
 - 2) That delegated authority be granted to the Head of Legal Services Officer/Monitoring Officer to appoint a Deputy Monitoring Officer pursuant to Section 5(7) of the Local Government and Housing Act 1989 that shall be capable of exercising the powers of the Monitoring Officer in the absence of the Head of Legal Services/Monitoring Officer; and
 - 3) The Constitution of Neath Port Talbot County Borough Council be updated to incorporate the amendments enclosed as Appendix 1 annexed to this Report

Reason for Proposed Decision

14. To ensure that the Council meets its obligations under the Local Government and Housing Act 1989 and to ensure that suitable arrangements are in place to ensure that the Council can meet the obligations set out in paragraph 3 of this Report.

Appendices

15. Appendix 1 – Amendments to The Constitution of Neath Port Talbot County Borough Council

List of Background Papers

16. The Constitution of Neath Port Talbot County Borough Council

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Appendix 1

Amendments to The Constitution of Neath Port Talbot County Borough Council

1. Insert the following paragraph at Article 11, Section 11.4

“(h) **Appoint a Deputy Monitoring Officer.** The Monitoring Officer may appoint a Deputy Monitoring Officer in accordance with Section 5(7) of the Local Government and Housing Act that shall be capable of exercising the powers of Monitoring Officer where the Monitoring Officer is unable to act due to his/her absence or illness in respect of Section 5 of the Local Government and Housing Act 1989 and in respect of all other related functions”

2. Article 11, Section 11.5 shall be amended so that it reads as follows (the amendments being underlined):

“Functions of the Deputy Monitoring Officer

That Mr Iwan Davies, Principal Solicitor, or such other person as nominated by the Authority’s Monitoring Officer, is delegated to act as the Authority’s Deputy Monitoring Officer in circumstances where the Monitoring Officer is unable to act due to his/her absence or illness pursuant to Section 5 of the Local Government and Housing Act 1989 and in respect of all other related functions.”