

The background of the slide features a large, light blue watermark of the Coat of Arms of the Government of Yukon. The crest includes a crown with four maple leaves, a shield divided into four quadrants (top-left: a diagonal cross, top-right: a stag's head, bottom-left: a sailing ship, bottom-right: an eagle), and a ribbon at the bottom with the motto "A NE FOR A".

## **Agenda Item 10**

### **Designation of Statutory Officers**

**Falkirk Council**

**Title:** Designation of Statutory Officers  
**Meeting:** Falkirk Council  
**Date:** 24 May 2017  
**Submitted By:** Director of Corporate & Housing Services

**1. Purpose of Report**

- 1.1 The purpose of this report is to invite Council to appoint chief officers to various statutory officer and proper officer roles.

**2. Recommendations**

- 2.1 **Council is asked to designate the Chief Officers identified in the appendix as the statutory or proper officer for the purposes described.**

**3. Background**

- 3.1 There are a number of statutory provisions which require the Council to appoint an officer for the purpose specified in the statute. The significance of the role performed by the officer varies considerably. The full list of the officers required to be appointed is set out in the appendix to this report together with the suggested chief officer postholder who would perform the function. The role of the most significant statutory officers is described more fully below.

**4. Considerations**

**4.1 Head of Paid Service**

The requirement to appoint a Head of Paid Service arises from Section 4 of the Local Government and Housing Act 1989. The purpose of this statutory provision is to ensure that there is a single officer of the Council with overall responsibility for ensuring that the Council's paid service is organised in a manner to allow the proper discharge of the Council's functions. The Head of Paid Service has a specific statutory responsibility to advise the Council on these matters and the Council has a corresponding duty to consider her proposals. Throughout the lifetime of this Council, this role has been performed by the Council's Chief Executive. It is suggested that this function continues to be performed by the Chief Executive.

#### **4.2 Monitoring Officer**

The duty to appoint a Monitoring Officer derives from Section 5 of the 1989 Act. The reason for the introduction of this statutory office was to ensure that there was an individual officer responsible for advising on the propriety and legality of any action proposed or taken by the Council, any of its committees or any of its officers. The Monitoring Officer is empowered to bring a report to Council if he/she considers that any such illegality is proposed or has taken place. The effect of such a report is to suspend the decision or proposal considered to give rise to illegality. This role has been performed by the Chief Governance Officer and the predecessor post, the Director of Law and Administration, since the inception of the Council. It is proposed that the Chief Governance Officer continue to perform this function.

#### **4.3 Chief Finance Officer**

Section 95 of the Local Government (Scotland) Act 1973 requires the Council to appoint a proper officer with responsibility for the financial affairs of the authority. The office under Section 95 is commonly known as the Chief Finance Officer. The provisions in Section 95 place fewer specific responsibilities on the Chief Finance Officer but broadly the post should be understood as designating an individual office holder responsible for insuring the proper functioning of the Council's Finance Service and for offering financial advice to the Council. The Chief Finance Officer and his predecessor the Director of Finance have performed this role and it is recommended that he continues to do so.

#### **4.4 Chief Social Work Officer**

The requirement to appoint a Chief Social Work Officer derives from Section 3 of the Social Work (Scotland) Act 1968. There are no specific responsibilities placed on the Chief Social Work Officer in Section 3 itself. There are, however, a number of specific statutory roles in the discharge of the Social Work function which the Chief Social Work Officer requires to perform individually. The role of the Chief Social Work Officer is also helpfully supported by extensive guidance from the Scottish Government. This has previously been considered and agreed by the Council. This role requires to be performed by a qualified social worker. It is proposed that this role is undertaken by the Head of Social Work – Children's Services.

#### **4.5 Returning Officer**

Section 41 of the Representation of the People Act 1983 requires the Council to appoint one of its officers to act as the Returning Officer for the election of Councillors. This role has been performed by the Chief Executive of the Council throughout the lifetime of the Council and it is proposed that she continues to do so.

#### **4.6 Electoral Registration Officer**

Section 8 of the 1983 Act requires the Council to appoint an Electoral Registration Officer. Since the inception of the Council this function has been performed by the Assessor for Central Scotland and it is not proposed that this arrangement change. Section 52 of the Act allows for deputies to be appointed for the electoral registration officer and approved by the Council. The Assessor proposes that the deputy role is undertaken on by the Assistant Assessor and the Principal Administration Officer.

#### **4.7 Proper Officers**

Proper Officers require to be appointed over a wide range of activities. In general, the Chief Officer suggested to perform the function is that most relevant in terms of the function to be performed.

### **5. Consultation**

5.1 Consultation is not required.

### **6. Implications**

#### **Financial**

6.1 There are no financial implications.

#### **Resources**

6.2 There are no resource implications arising from the recommendations.

#### **Legal**

6.3 There are no legal implications arising from the recommendations.

#### **Risk**

6.4 There are no risk implications arising from the recommendations.

#### **Equalities**

6.5 An equality and poverty impact assessment was not required.

#### **Sustainability/Environmental Impact**

6.6 A sustainability assessment was not completed as part of compiling the report and the main findings.

## **7. Conclusions**

- 7.1 The first meeting of the new Council presents an opportunity to appoint chief officers to various statutory roles.

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Date: 12 May 2017

## **Appendices**

Appendix 1 - List of Proper officers

### **List of Background Papers:**

No papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973.

**DESIGNATION OF PROPER OFFICER****STATUTORY PROVISIONS APPLICABLE TO FALKIRK COUNCIL**

<b><u>Statutory Provision</u></b>	<b><u>Purpose</u></b>	<b><u>Proper Officer</u></b>
<b>Social Work (Scotland) Act 1968</b>	Chief Social Work Officer	Head of Social Work Children's Services
<b>Local Government (Scotland) Act 1973</b>		
Section 33A	Proper Officer for purposes in connection with Declarations of Acceptance of Office by Councillors.	Chief Executive and Chief Governance Officer
Section 34	Proper Officer for receipt of Councillors' resignations.	Chief Executive
Sections 43 and Schedule 7	Proper Officer for purposes in connection with meetings and proceedings of the Council, Committees and Sub Committees.	Chief Governance Officer
Section 50B – F	Proper Officer for various purposes in connection with access to agendas, reports and background papers of the Council, Committees and Sub Committees.	Chief Governance Officer
Section 95	Proper Officer for the administration of the Council's financial affairs.	Chief Finance Officer

Section 190	Proper Officer for various purposes in connection with legal proceedings and service of notices etc. on the Council.	Chief Governance Officer
Section 191	Proper Officer in respect of claims on behalf of the Council in sequestrations and liquidations.	Chief Finance Officer
Section 193	Proper Officer in respect of authentication of documents.	Chief Governance Officer
Section 194	Proper Officer in respect of execution of deeds and use of the Council seal.	Chief Executive and Chief Governance Officer
Sections 202-204	Proper Officer for various purposes in connection with byelaws.	Chief Governance Officer
<b>Representation of the People Act 1983</b>		
Section 8	Electoral Registration Officer	Assessor
Section 41	Returning Officer	Chief Executive
Section 52	Deputy Electoral Registration Officer	Chief Governance Officer
	All other references to the proper officer of the Council in legislation pertaining to elections.	Assistant Assessor and Principal Administration Officer
<b>Local Government &amp; Housing Act 1989</b>		
Section 2	Proper Officer in respect of list of politically restricted postholders.	Head of Human Resources & Business Transformation

Section 4	Head of Paid Service	Chief Executive
Section 5	Monitoring Officer	Chief Governance Officer

**Civic Government (Scotland) Act 1982**

Section 112-113	Proper Officer in respect of management rules.	Chief Governance Officer
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<b>The Ethical Standards in Public Life etc. (Scotland) Act (Register of Interests) Regulations 2003</b>	Proper Officer in respect of maintaining the register of members' interests.	Chief Governance Officer
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