

FALKIRK COUNCIL

**Subject: DESIGNATION OF STATUTORY OFFICERS, RETURNING
OFFICER AND PROPER OFFICERS**
Meeting: FALKIRK COUNCIL
Date: 18 MAY 2012
Author: CHIEF EXECUTIVE

1. INTRODUCTION

- 1.1 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.

2. STATUTORY OFFICERS

2.1 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.

2.2 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 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.

2.3 **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 preformed this role and it is recommended that the he continues to do so.

2.4 **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 and through the lifetime of this Council has been performed by the Director of Social Work Services. It is proposed that she continues to perform this function.

3. **RETURNING OFFICER**

- 3.1 Section 41 of the Representation of the People Act 1983 requires the Council to appoint one of its officers to act at 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. **PROPER OFFICERS**

- 4.1 It will be seen from the appendix to the report that 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. RECOMMENDATION

- 5.1 It is recommended that the Chief Officer identified in the appendix to this report be designated as the statutory or proper officer for the purposes described.

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Chief Executive

Date: 20 April, 2012

Contact Officer: Colin Moodie ext 6097

LIST OF BACKGROUND PAPERS

NIL