

**Committee:** Council

**Date:** 2 February 2011

Agenda item: 10

Wards: All

**Subject:** Statutory duty to appoint a 'Scrutiny Officer'

Lead officer: Kate Martyn Head of Policy, Partnership & Communities

Lead member: Councillor Peter Southgate, Chair of the Overview and Scrutiny Commission

Forward Plan reference number: 989

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**Recommendations:**

A. That the Council:

- (1) appoints the Scrutiny Manager as the designated 'Scrutiny Officer' for the Council and that this post be added to the list of Proper Officers in the Scheme of Delegation (section 3F-E of the Council's Constitution);
  - (2) delegates authority to the Chief Executive to appoint the designated Scrutiny Officer in the event of a change to the post of Scrutiny Manager as a result of reorganisation;
  - (3) adopts the proposed revision to the constitution as set out in Appendix A.
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**1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 This report sets out the requirement under the Local Democracy, Economic Development and Construction Act 2009 (the Act) for the Council to designate one of its officers as the authority's 'Scrutiny Officer'.
- 1.2 Standards Committee, at its meeting on 20 October 2010, resolved:
  - a) That the Standards Committee recommends that the scrutiny manager be approved as the designated Scrutiny Officer for the Council and that this post be added to the list of proper officers in the scheme of delegation (section 3F-E of the Council's constitution.
  - b) that the Standards Committee recommends that authority be delegated to the Head of Paid Service to appoint the designated Scrutiny Officer in the event of a change to the post of scrutiny manager as a result of re-organisation;
  - c) that the Standards Committee recommends that the Terms of Reference for the Scrutiny Officer contains sufficient powers for them to effectively discharge their responsibilities; and
  - d) that the Standards Committee recommends that the proposed revision to the constitution as set out in appendix A to the report be adopted by the Council.
- 1.3 The General Purposes Committee, at its meeting held on 20 January, resolved to recommend to Council that:

- a) the Scrutiny Manager be approved as the designated 'Scrutiny Officer' for the Council and that this post be added to the list of Proper Officers in the Scheme of Delegation (section 3F-E of the Council's Constitution);
- b) authority be delegated to the Chief Executive to appoint the designated Scrutiny Officer in the event of a change to the post of Scrutiny Manager as a result of reorganisation;
- c) Council adopt the proposed revision to the constitution as set out in Appendix A.

## **2. DETAILS**

2.1 The Act requires local authorities with lead responsibilities for Local Area Agreements to designate a 'scrutiny officer' from 1 April 2010.

2.2 The functions of this role, as listed in the Act, are:

“(a) to promote the role of the authority’s overview and scrutiny committee or committees;

(b) to provide support to the authority’s overview and scrutiny committee or committees and the members of that committee or those committees;

(c) to provide support and guidance to:

(i) members of the authority,

(ii) members of the executive of the authority, and

(iii) officers of the authority,

in relation to the functions of the authority’s overview and scrutiny committee or committees.”

2.3 In practice, the Scrutiny Manager is currently responsible for the day to day delivery of the functions listed in section 2.2 above and so it is proposed that the Scrutiny Manager be designated as the authority’s Scrutiny Officer. Changes to the Council’s constitution have to be considered by the Standards Committee and General Purposes Committee and then adopted by Council. The timetable for this is such that the designation would take effect from 1 December 2010 (see section 5 below).

2.4 The Act stipulates that local authorities cannot designate the role of designated 'Scrutiny Officer' to their Head of Paid Service, Monitoring Officer or Chief Finance Officer.

2.5 Therefore, in keeping with its statutory obligation under the Act, it is proposed that the Council appoint the Scrutiny Manager as its designated Scrutiny Officer and that this post is added to the list of Proper Officers Statutory Officers in section 3F-E of the Council's Constitution.

2.6 In the event that the post of Scrutiny Manager is changed as a result of a reorganisation, authority is sought for the Chief Executive to be able to appoint the most appropriate manager to the role without further reference to Council.

## **3. ALTERNATIVE OPTIONS**

3.1 The Council could decide that an alternative post be designated as the authority’s scrutiny officer. The Scrutiny Manager reports to the Head of Policy, Partnerships and Communities who in turn reports to the Director of Transformation. Either of those posts could therefore be considered as alternative options.

#### **4. CONSULTATION UNDERTAKEN OR PROPOSED**

The proposals were considered and agreed by the Overview and Scrutiny Commission on 22 July 2010. The proposals were considered by the Standards Committee and subsequently by the General Purposes Committee.

#### **5. TIMETABLE**

Overview and Scrutiny Commission	22 July 2010
Standards Committee	20 October 2010
General Purposes Committee	20 January 2011
Council	02 February 2011

#### **6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1 None for the purposes of this report.

#### **7. LEGAL AND STATUTORY IMPLICATIONS**

7.1 Section 31 (3) of the Act requires the Council to designate a post as 'scrutiny officer'. The statutory functions relating to this role are set out in paragraph 2.2 above. Paragraph (4) of section 31 states that the designated scrutiny officer will not be any of the 'Statutory Officers' (paragraph 2.4 refers). In designating the Scrutiny Manager post as a proper officer for this purpose, regard is had to the fact that the post does not carry a personal responsibility in the same manner as that placed on the council's designated statutory officers. Therefore, the discharge of the statutory functions detailed at 2.2. will require to be applied to the preferred post for this purpose.

#### **8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1 It is a fundamental aim of the scrutiny process to ensure that there is full and equal access to the democratic process through public involvement and engaging with local partners in scrutiny reviews. It is the responsibility of the Scrutiny Manager to ensure that scrutiny practice adheres to this aim.

#### **9. CRIME AND DISORDER IMPLICATIONS**

9.1 The Police and Justice Act 2006 requires every Council to have a scrutiny committee with the power to review or scrutinise decisions made, or other action taken by the Council and the other responsible authorities in the exercise of their crime and disorder functions.

9.2 In Merton this responsibility lies with the Overview and Scrutiny Commission, supported by the Scrutiny Manager.

#### **10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1 None for the purposes of this report.

#### **11. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

11.1 Appendix A – proposed amendment to the constitution

#### **12. BACKGROUND PAPERS**

12.1 None

Appendix A - Proposed amendment to Part 3F of the Constitution

Section E – Proper officers

Add at end

17. Scrutiny Officer (Local Government Act 2000 s21ZA(Local Democracy, Economic Development and Construction Act 2009 s31))

The manager with designated responsibility for the scrutiny function as nominated by the Head of Paid Service.