

## **Scheme of delegation- Governance Compliance and Monitoring Officer**

### **Introduction and Context**

The Governance Compliance and Monitoring Officer has overall responsibilities within the Council for Governance and Compliance and undertakes the Monitoring Officer functions.

The Monitoring Officer (MO) is required to carry out the statutory functions of their post personally, with the exception that:

- The Monitoring Officer, rather than the Council, will nominate at least one Officer as Deputy Monitoring Officer, with the power to act as Monitoring Officer where the Monitoring Officer **is unable to act as a result of absence or illness or conflict of interest**; and

- In respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external and independent individual to conduct a particular investigation.

Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any Officer to assist them in the discharge of any non-statutory functions.

Subject to the above the Governance Compliance and Monitoring Officer is able to onward delegate these functions to other officers. This document seeks to capture those onward delegations.

The Governance Compliance and Monitoring Officer is given delegated power to exercise all the Authority's powers, functions and responsibilities and to take any decisions in relation to the following areas of the Council's operations and services, subject to the Constitution:

### **Legal Services**

### **Audit Risk and Assurance**

- Internal Audit

- Risk and Business Continuity
- Insurance
- Health and Safety
- Information Rights

### **Democratic Services**

- Registration and Civic Services
- Electoral Services
- Democratic Services

The powers delegated are wide and inclusive and are not listed by reference to each and every statute, function or regulation.

## **Monitoring Officer**

The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and is responsible for supporting and advising the Council in relation to:

- the lawfulness and fairness of the decision making of the Council
- the Council's compliance with its legal responsibilities and requirements
- matters relating to the conduct of Councillors (including Parish Councillors).

The Monitoring Officer shall have the following delegated powers and responsibilities:

Monitoring Officer	To act as the Council's Monitoring Officer under the law and the Council's Constitution.	Governance, Compliance and Monitoring Officer
Appointment of Deputy Monitoring Officer (DMO)	To act as the Council's Deputy Monitoring Officer(s) under the law and the Council's Constitution, where the Monitoring Officer is unable to act on a matter in their	Head of Legal Services

	statutory capacity under section 5 of the Local Government and Housing Act 1989.	
	To act where the Monitoring Officer is unable to act on a matter in relation to Member conduct.	Deputy Monitoring Officers for this purpose are: Head of Legal Services Legal Team Manager (Place Team) Legal Team Manager (People Team)
Investigatory and Disciplinary Committee	The discipline of the Statutory Officers.	Governance, Compliance and Monitoring Officer only (the DMO can only act where the Monitoring Officer is unable to act as a result of absence or illness or conflict of interest.)
Section 5 report of illegality or maladministration	The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance Officer, investigate and report any proposal, decision or omission considered to be unlawful or that amounts to maladministration to the Council as appropriate in accordance with Section 5 and 5A of the Local Government and Housing Act 1989 as amended by paragraph 24 of Schedule 5 Local Government Act 2009.	Governance, Compliance and Monitoring Officer only (the DMO can only act where the Monitoring Officer is unable to act as a result of absence or illness or conflict of interest.)
Register of Members' Interests (including town and parish.)	To maintain the Register of Member's Interests in accordance with section 81(1) Local Government Act 2000 and section 29 Localism Act 2011, including	Governance, Compliance and Monitoring Officer

	dealing with sensitive interests under section 32 Localism Act 2011.	
Register of Gifts and Hospitality-Members	To maintain the Register of Member's Gifts and Hospitality (s29 Localism Act 2011.)	Governance, Compliance and Monitoring Officer
Councillor Allowances	To determine whether a particular claim for payment under the Councillors Allowances Scheme is appropriate.	Governance, Compliance and Monitoring Officer Head of Democratic Services
Members' code of conduct complaints	To administer, assess and investigate complaints of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.	Governance, Compliance and Monitoring Officer Deputy Monitoring Officers for this purpose are: Head of Legal Services Legal Team Manager (Place Team) Legal Team Manager (People Team)
Resources	To report to the Council on resources which they consider they require for the discharge of their functions.	Governance, Compliance and Monitoring Officer
Principal Legal Adviser	To act as Principal Legal Advisor to the Council.	Governance, Compliance and Monitoring Officer
Governance	To promote and co-ordinate the effective Governance of the Council.	Governance, Compliance and Monitoring Officer

		Deputy Monitoring Officers for this purpose are: Head of Legal Services Legal Team Manager (Place Team) Legal Team Manager (People Team)
Scrutiny	To encourage effective scrutiny of the Council.	Governance, Compliance and Monitoring Officer (NB. Head of Democratic Services is the statutory Scrutiny Officer-Local Government Act 2000 Section 9FB.)
Probity	To consult regularly with the Chief Executive / Head of Paid Service, the Chief Financial Officer and Auditors to identify areas where the probity of the Council can be improved or better protected and to take appropriate action.	Governance, Compliance and Monitoring Officer
Whistleblowing	To receive disclosures of whistleblowing in accordance with the Council's whistleblowing policy.	Governance, Compliance and Monitoring Officer (the Chief Executive and Internal Audit can also receive such disclosures.)
Audit and Governance Committee	To support the Audit and Governance Committee in the delivery of the responsibilities as set out in this constitution.	Governance, Compliance and Monitoring Officer

Ethical advice to members	To provide advice to Members on conduct and ethics matters generally.	Governance, Compliance and Monitoring Officer
Member training	To provide an effective, robust and ongoing programme of elected member training and development.	Governance, Compliance and Monitoring Officer Head of Democratic Services
Monitor and uphold the Constitution	To regularly review the constitution for effectiveness and accuracy and report to council on any changes and updates required.	Governance, Compliance and Monitoring Officer
	<p>In consultation with the Chair and Vice-Chair of the Corporate Policy Committee, to make such changes to the Council's Constitution as the MO deems to be necessary and which are in the Council's interests and not major in nature, including, but not limited to, changes:</p> <ul style="list-style-type: none"> <li>-amounting to routine revisions</li> <li>-to provide appropriate clarity</li> <li>-to correct typographical and other drafting error</li> <li>-to reflect new legislation</li> <li>-to correct inconsistencies in drafting</li> <li>-to reflect new officer structures and job titles, properly approved through Council processes.</li> </ul>	Governance, Compliance and Monitoring Officer
Advice-Budget & Policy Framework	Provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the Budget and Policy Framework.	Governance Compliance and Monitoring Officer

Dispensations-s33 Localism Act 2011	<p>To determine applications for dispensations under Section 33 of the Localism Act 2011, in consultation with the Chair of the Audit and Governance Committee, as follows:</p> <ul style="list-style-type: none"> <li>-if it is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.</li> <li>-if it is considered that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.</li> <li>-if it is considered that granting the dispensation is in the interests of persons living in the authority's area; or</li> <li>-if it is considered that it is otherwise appropriate to grant a dispensation.</li> </ul>	Governance Compliance and Monitoring Officer
<b>Legal Services</b>		
Deputising for Governance Compliance and Monitoring Officer	In the absence of the Governance, Compliance and Monitoring Officer to exercise all functions and powers of the same-as set out in the scheme of delegation.	Head of Legal Services

Deputising for Head of Legal	In the absence of the Head of Legal Services, to exercise all functions and powers of the same.	Legal Team Manager (Place Team) Legal Team Manager (People Team)
Council, Committees etc	To provide legal and governance advice, support and attend Council, committees and all decision making bodies (including advising on officer and member decisions) as required.	Governance Compliance and Monitoring Officer
Legal proceedings, notices/agreements/orders etc	To prosecute, defend, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).	Governance Compliance and Monitoring Officer
	To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.	Governance Compliance and Monitoring Officer
Byelaws etc	To institute legal proceedings for any offences under any local Byelaws or Orders in force within the Council's area.	Governance Compliance and Monitoring Officer
Objections	To lodge objections to any proposal affecting the authority, the authority's area or the inhabitants of the authority's area.	Governance Compliance and Monitoring Officer



Crest	To determine applications for the display of the crest or logo of the Council.	Governance Compliance and Monitoring Officer
Counsel/external lawyers	To instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the authority.	Governance Compliance and Monitoring Officer
Statutory Notices	To authorise serving of Statutory Notices, to authorise completion and confirmation of Orders.	Governance Compliance and Monitoring Officer
	To authenticate and serve statutory notices and to place public notices and advertisements, as may be necessary or expedient for the discharge of functions.	Governance Compliance and Monitoring Officer
Indemnities	To agree indemnities where they are required to enable the Council to exercise any of its functions provided that where the giving of an indemnity could have considerable financial implications the Director of Finance and Customer Services shall be required to give approval.	Governance Compliance and Monitoring Officer
Contracts, agreements, conveyance etc	To prepare and execute any contract, agreement, conveyance or other document necessary to give effect to a decision of the Council, a Committee, Sub-Committee or officer acting under delegated functions.	Governance Compliance and Monitoring Officer and their authorised signatories.

Settlements of uninsured claims (including Local Government and Social Care Ombudsman)	To authorise the settlement of actual or potential uninsured claims, borehole claims or Local Government and Social Care Ombudsman cases across all functions of the Council up to £100,000. Settlements above £100,000 and below £500,000 shall be determined by the Monitoring Officer in consultation with the Chair of the Finance Sub-Committee and the Executive Director (Corporate Services), which after settlement shall be reported to the relevant Committee.	Governance and Compliance and Monitoring Officer
Insurance and postponing legal charges	To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges.	Governance and Compliance and Monitoring Officer
Authorisation to act in proceedings	To authorise appropriately qualified employees or persons acting on behalf of the Council to appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority.	Governance Compliance and Monitoring Officer
Authentication of documents, byelaws and copy minutes etc.	Certification and authentication of documents, byelaws and copy minutes and signing of other relevant formal notices.	Governance Compliance and Monitoring Officer and their authorised signatories.
Cautions	To authorise appropriate Officers to administer formal cautions in respect of criminal offences.	Governance Compliance and Monitoring Officer
Proving Debts	To prove debts owed to the Authority in bankruptcy and liquidation proceedings.	Governance Compliance and Monitoring Officer

Land Compensation Act 1973	To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer and approve all claims for compensation under Part 1 of the Land Compensation Act 1973.	Governance Compliance and Monitoring Officer
	Service of counter notice when served with a blight notice and/or authorisation of payment of the relevant compensation.	Governance Compliance and Monitoring Officer
Regulation of Investigatory Powers Act 2000 (RIPA)	<p>In accordance with the Council's approved policy, to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:</p> <ul style="list-style-type: none"> <li>-Ensuring compliance with all relevant legislation and with the Codes of Practice.</li> <li>-Engagement with the Inspectors from the Investigative Powers Commissioners Office when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.</li> <li>- Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.</li> </ul>	Governance Compliance and Monitoring Officer

Highways-temporary closure orders	To make Orders for the Temporary Closure of Highways and Regulation of Traffic.	Governance Compliance and Monitoring Officer in consultation with the Director of Transport and Infrastructure, Head of Highways and Contract Managers.
Highways claims	To authorise the defence, settlement or other actions, as advised and instructed, on highways claims.	Governance Compliance and Monitoring Officer
Sealing	To attest the affixing of the Council's seal to all documents approved for sealing. Such attestation and/or affixing may include by digital or electronic means in accordance with the provisions of the Electronic Communications Act 2000 or other legislative authority.	Governance Compliance and Monitoring Officer and their authorised signatories.

## Audit Risk and Assurance

Role within Scheme	Specific Function or Decision Making	Officer responsible
Internal Audit	To be responsible for the Internal Audit function, delivering the service in line with the required professional standards.	Head of Audit, Risk and Assurance Internal Audit Manager
	To provide the objective and evidence-based annual internal audit opinion as the Council's Chief Audit Executive.	Head of Audit, Risk and Assurance Internal Audit Manager

Annual Governance Statement	Lead the production and development of the Council's Annual Governance Statement.	Head of Audit, Risk and Assurance Internal Audit Manager
Business Continuity	To be responsible for providing arrangements for business continuity planning and delivery to protect services against failure and safeguard the delivery of key services.	Head of Audit, Risk and Assurance Risk and Business Continuity Officer
Prevention of Fraud and Corruption	To develop and maintain the effectiveness of the Council's Counter Fraud and Corruption Strategy and associated procedures, ensuring fraud and corruption risks are routinely considered as part of the Council's risk management arrangements, in accordance with the council's Financial Procedure Rules and relevant policy.	Governance, Compliance and Monitoring Officer Head of Audit, Risk and Assurance
Risk Management	To prepare and advise Council on an appropriate risk management policy statement and strategy, including risk appetite/tolerance levels, promoting it throughout the Council and reviewing the effectiveness of risk management including appropriate levels of insurance, in accordance with all risk and insurance related financial procedure rules.	Governance, Compliance and Monitoring Officer

	To co-ordinate the Council's Strategic Risk Register and provide the mechanisms for operational risks to be recorded, reviewed and reported against to support the Council to achieve it's objectives.	Head of Audit, Risk and Assurance
Insurance	To maintain and administer the Council's insurances, as set out in detail in FPR 4.5, including levels of self insurance, to support the effective risk management of the Council.	Governance Compliance and Monitoring Officer Head of Audit, Risk and Assurance
	To authorise officers to make arrangements for the administration of insurance claims in conjunction with the Council's insurers and appointed legal representatives.	Head of Audit, Risk and Assurance Corporate Insurance Manager
	To authorise the settlement or repudiation of insurance claims and associated costs within the procurement approval limits set out in the financial procedure rules and financial scheme of delegation acting on advice from the Council's solicitors, insurers, and claims handlers.	Governance Compliance and Monitoring Officer
	To authorise claim related documents (e.g. Statements of Disclosure, Statements of truth, Defence Statements etc) for the management of insurance claims activity, settling claims from third parties, either direct or via the Council's appointed external claims handlers and/ or the Council's litigated insurance claims solicitors.	Head of Service for the area of the business in consultation with Head of Audit, Risk and Assurance, Corporate Insurance Manager and Governance Compliance and Monitoring Officer.

Health and Safety	To be responsible for discharging the Council's Health and Safety functions, powers and duties in relation to the workforce and the work of the Council.	Head of Audit, Risk and Assurance Corporate Health and Safety Manager
Information Rights	<p>To advise on the Council's data protection obligations and manage the Council's compliance with The Data Protection Act 2018 and The General Data Protection Regulations (GDPR) including administering the Council's responsibilities under Data Protection and Freedom of Information legislation and related legislation.</p> <p>To provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the Information Commissioner's Office (ICO).</p>	Information Rights Manager (Data Protection Officer) Deputy Data Protection Officer in the absence of the DPO
<b>Democratic Services</b>		
Advice on decision making, business support, member enquiries and training	<p>To provide support to Members of the Council with:</p> <ul style="list-style-type: none"> <li>- administration of and advice upon the Council's decision making process</li> <li>- business support to this service</li> <li>- administration of the member enquiry service (MES)</li> <li>- member training and development</li> </ul>	Democratic Services Manager

Notice of Meetings/summons	To issue summons to Council meetings, Committees and Sub-Committees to all members and give notice of said meetings.	Head of Democratic Services  (NB Chief Executive signs the summons.)
Access to Information Procedure Rules	To administer responses to requests from Members under the Access to Information Procedure Rules.	Head of Democratic Services (in consultation with the Governance Compliance and Monitoring Officer. Decision whether information is exempt lies solely with MO.)
Governance services, scrutiny and school appeals	To exercise the functions of governance services, scrutiny and school appeals.	Head of Democratic Services
Registration Service	To be the Proper Officer to exercise the council's functions under the Registration Service Act 1953 (and any other associated/relevant legislation) regarding the registration of births, deaths and marriages (as well as civil ceremonies.)	Head of Democratic Services (Further details provided in the Proper Officer scheme of delegation.)
Forced Marriage (Civil Protection) Act 2007	To exercise the functions of the Council pursuant to the Forced Marriage (Civil Protection) Act 2007.	Head of Democratic Services Registration and Civic Services Manager.
	To provide the functions, facilities and arrangements for providing citizenship ceremonies and the registrar to conduct them, under Section 3 and Schedule 1 of the Nationality, Immigration and Asylum Act 2002.	Head of Democratic Services Registration and Civic Services Manager



	To manage custody of historic records.	Registration and Civic Services Manager
Civic Office	To provide business management support to the Mayor of Cheshire East and the Cheshire Lieutenancy.	Registration Services and Civic Manager
Executive support team	To provide business management support to the Leader, Deputy Leader, Service Committee Chairs, Chief Executive and Executive Directors.	Registration and Civic Services Manager
Coronial Services	To discharge the Council's duties under the Coroners and Justice Act 2009 and any other relevant legislation. NB Management of this function is led by Warrington Borough Council as part of the coronial area.	Governance Compliance and Monitoring Officer delegated to the Head of Democratic Services.
Elections	To support the Returning Officer and Electoral Registration Officer in the exercise of election and electoral registration functions. Administration of all elections and referenda in Cheshire East.	Head of Democratic Services Electoral Services Manager