



## OFFICER REPORT TO COUNCIL

### APPOINTMENT OF STATUTORY OFFICERS

#### **KEY ISSUE/DECISION:**

This report invites the Council to approve the arrangements for the appointment of the Data Protection Officer, the Returning Officer and the Scrutiny Officer for the authority.

#### **BACKGROUND:**

##### **Data Protection Officer**

1. Article 38 of the General Data Protection Regulation requires that all authorities designate a Data Protection Officer (DPO). The Article states that the officer 'shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices'.
2. The Regulation further requires that the DPO's details must be published, that they must be supported in carrying out the role and that, although they may be an employee or contractor, their role must be executed with independence. The DPO may not be penalised for carrying out his or her tasks and must report to the highest management level regarding the detailed range of tasks set out at Article 39 of the Regulation. These tasks include providing advice on the lawful performance of the Council's obligations and monitoring its compliance, as well as advising on data protection impact assessments. In addition, the DPO acts as the authority's contact point with the Information Commissioner's Office (ICO).
3. Article 38 of the GDPR permits the appointment of a single DPO for several public bodies or authorities. Officers at Surrey County Council have actively explored this option with fellow Orbis partners, East Sussex County Council and Brighton and Hove City Council. Accordingly, an internal recruitment exercise has been undertaken with the intention of appointing a DPO to operate across all three councils for 12 months in the first instance.

##### **Returning Officer**

4. The Representation of the People Act 1985 Section 35 requires the council to appoint an officer of the council to be the Returning Officer in local elections. Although the Returning Officer is an officer of the council, the role holds personal responsibilities independent and separate from the holder's duties as an employee of the council.

5. The role of the Returning Officer may include the power to:
  - Determine the details and timings of the electoral event;
  - Make decisions on breaches of rule;
  - Determine candidate eligibility;
  - Make judgements on procedural issues or errors that may arise during a ballot;
  - Consider all matters that may arise in the wider environment in which the electoral event is being conducted; and
  - Declare candidates elected or options selected.
6. At an election, the Returning Officer may appoint deputies to carry out specific election-related tasks and responsibilities. Habitually, Surrey County Council's elections are carried out by officers in the county's District and Borough Council elections teams, to whom the Returning Officer formally delegates specific tasks.
7. Surrey's Returning Officer is customarily the Chief Executive of the council and, accordingly, it is recommended that Joanna Killian be appointed as the Returning Officer for Surrey County Council with immediate effect.

### **Designated Scrutiny Officer**

8. Under the terms of Section 31 of the Local Democracy, Economic Development and Construction Act 2009, the County Council is required to designate one of its officers as the 'scrutiny officer'. This was one of a number of provisions in the Act designed to improve governance, democracy and involvement in local government.
9. The holder of the designated officer role is responsible for discharging the following functions, set out within Article 11 of the council's Constitution:
  - To promote the role of the authority's overview and scrutiny committees;
  - To provide support to the authority's overview and scrutiny committees;
  - To provide support and guidance to:
    - Members of the authority;
    - Members of the executive of the authority; and
    - Officers of the authorityin relation to the functions of the authority's overview and scrutiny committees.
10. The County Council previously appointed the Senior Manager for Scrutiny as its Designated Scrutiny Officer. However, the postholder has recently left the County Council and a small restructure has been undertaken in the team, located in Democratic Services. The functions intended for the Scrutiny Officer now fall within the job profile of a newly-created Senior Manager Governance post, which reports directly to the Democratic Services Lead Manager. Therefore, operationally it would make sense that the Senior Manager Governance role is formally appointed as the council's Designated Scrutiny Officer.

## **RECOMMENDATIONS:**

It is recommended that:

- (a) The Head of Legal Services be authorised to include within the Council's Constitution the designation of a statutory Data Protection Officer;
- (b) Joanna Killian, as Chief Executive, be appointed as the Returning Officer for Surrey County Council;
- (c) The Senior Manager Governance postholder be designated as Surrey County Council's Scrutiny Officer.

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### **Lead/Contact Officers:**

Katie Booth, Democratic Services Lead Manager Tel: 020 8541 7197

### **Sources/background papers:**

The Council's Constitution  
General Data Protection Regulation  
Representation of the People Act 1982  
Local Democracy, Economic Development and Construction Act 2009

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