

Sandwell Metropolitan Borough Council

15 October 2019

Subject:	Appointment to Statutory Officer Posts, Committees/Boards and Other Bodies
Director:	Director of Law and Governance and Monitoring Officer - Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	Surjit Tour Director of Law and Governance and Monitoring Officer

DECISION RECOMMENDATIONS

That Council:

1. Appoint the Service Manager – Legal and Assurance, Maria Price, as the Council’s Statutory Data Protection Officer (DPO) with immediate effect.
2. Approve the revised establishment of the Sandwell Health and Wellbeing Board in accordance with Appendix A to this report, with immediate effect, in accordance with Section 194 of the Health and Social Care Act, 2012.
3. Approve the proposal to nominate two new non-executive directors to Sandwell Children’s Trust Board, Councillor Peter Allen and the Director of Prevention and Protection, Neil Cox, with final approval being made by Cabinet at its meeting on 30 October 2019.

1 PURPOSE OF THE REPORT

Appointments to Statutory Officer Posts

1.1 Statutory Data Protection Officer (DPO)

The General Data Protection Regulations (GDPR) require each Public Authority to appoint a named officer to the post of Statutory Data Protection Officer (DPO).

The DPO will be the council's main point of contact for any data protection issues and provides both the interpretation of legislation as well as the practical implementation on operational issues. The DPO will also be the single point of contact with the Information Commissioner's Office.

The role requires the named post to be independent of processing personal information to ensure that no conflict of issue can occur between the processing and the advice around processing. This does not preclude the named officer undertaking management functions over other employees (e.g. appraisals, 1-2-1, absence monitoring etc).

Following the retirement of the previously named officer, the Deputy Monitoring Officer (Maria Price) will take over the role.

1.2 Health and Wellbeing Board

At its meeting on 25 July 2019, the Health and Wellbeing Board gave consideration to representation on the Board by the Chief Executive of the Sandwell Children's Trust, as a discretionary member with no voting rights. In addition, there were some minor changes to the membership in line with the new CCG structure. Approval is now sought to the revised membership of the Health and Wellbeing Board for Sandwell, to include representation from Sandwell Children's Trust and amendments to the CCG representation (as set out in Appendix A).

1.3 Sandwell Children's Trust Board – Non Executive Directors

When establishing the arrangements for the delivery of Sandwell's children's social care services through Sandwell Children's Trust a Memorandum of Understanding (MoU) was entered into with the council. The MoU includes the arrangements for appointing the non-executive directors of the Trust board.

The MoU provides that the Council can appoint two non-executive directors to the Trust board. The Council can remove, or propose changes to, any person as Council appointed non-executive director from the Trust Board so long as, prior to any resolution to remove or propose

to change that person, it has considered any comments from the Trust Board about the proposal, and that the Secretary of State is invited to *“make written representations to the Council within 10 working days of being notified of the matter.... In making its decision the Council must take into account the representations made by the Secretary of State.”*

At the council’s Cabinet meeting on 22nd March 2017 it was agreed that the Council would nominate only elected members or officers for the non-executive director roles on the board. It was further agreed that there would be one elected member, nominated by the Council, and one officer, nominated by the Chief Executive.

The Council recognised that in both the member and officer nominations it was important to take account of any potential conflicts of interest that these appointments may have in order not to hinder the effective operation of the board or the council itself; the non-executive directors have a fiduciary duty to the Trust board.

Since the inception of the Trust board, the Council’s two appointed non-executive directors have been Councillor Paul Sanders and Stuart Lackenby. Following Stuart’s recent appointment to a new role in the Council as Director of Adult Social Care; this creates a conflict of interest requiring him to resign from the board. This need for change has led to the consideration of the councillor appointment also.

It is now the proposed to nominate two new non-executive directors to Sandwell Children’s Trust Board, Councillor Peter Allen who will bring experience of understanding data and monitoring performance, and the new incumbent to the role as Director of Prevention and Protection, Neil Cox.

The Trust board has been consulted on the Council’s intentions and a letter has now been sent to the Secretary of State.

It is proposed that the responses of the Secretary of State and Trust Board will be submitted to Cabinet, at its meeting on 30 October 2019, where a final decision will be made.

2 IMPLICATIONS FOR SANDWELL’S VISION

- 2.1 The Council’s decision-making structures are designed to support the delivery of Sandwell’s Vision 2030.

3 ALTERNATIVE OPTIONS

- 3.1 With regard to statutory officer posts, given the nature of the roles and current structures within the council, it is possible to allocate the roles to other officers within the council; however, the most suitable officers have been proposed and recommended in this report.

4 STRATEGIC RESOURCE IMPLICATIONS

- 4.1 There are no direct resource implications arising from the approval of the decision-making structures for 2019/2020 or the appointment of members to positions within the structure.
- 4.2 The proposed statutory officer job roles affected would be amended to reflect the statutory roles. Any additional budgetary expenditure will be met from existing approved budget.

5 LEGAL AND GOVERNANCE CONSIDERATIONS

- 5.1 Council can determine the making of non-executive appointments to committees and other fora. Council is under a legal and constitutional obligation to make appointments to its committees, boards and other fora to ensure the effective operation of the Council's functions and other obligations, duties and responsibilities.

6 DATA PROTECTION IMPACT ASSESSMENT

- 6.1 The statutory officer proposals will enable compliance with General Data Protection Regulations.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 Relevant and applicable equality issues have been considered and no such issues arise.

8 CRIME AND DISORDER AND RISK ASSESSMENT

- 8.1 The proposed appointment to Statutory Data Protection Officer will assist the council in addressing the council's risks associated with information governance including GDPR. The council will also avoid a challenge for failing to appoint appropriate officers to the roles.

9 SUSTAINABILITY OF PROPOSALS

9.1 The proposals will ensure that the Council is compliant with regulations.

10 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

10.1 The proposals have no implications on health and wellbeing.

11 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

11.1 There are no implications for Council managed land or property.

12 APPENDICES

Appendix A – Revised membership of Health and Wellbeing Board

Surjit Tour

Director of Law and Governance and Monitoring Officer