**Subject: Appointment Process for the Role of Monitoring Officer**

Report to: Business Management and Administration Committee

Report of: Executive Director of Resources

| Date: 30 March 2011 |

This report will be considered in public

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1. **Summary**

1.1 This report sets out recommendations in relation to the proposed appointment process for the role of Monitoring Officer.

1.2 The Assembly agreed on 23 March 2011 to the matter to this Committee after the agenda for the meeting of this Committee had been published. The Chair of this Committee has agreed that the matter should be dealt with as a matter of urgency, the special reasons being that the next scheduled meeting of the Business Management and Administration Committee will not take place until 25 May 2011 and that this matter needs to be considered at the earliest opportunity.

2. **Recommendation**

2.1 That the Committee agrees the appointment process set out in paragraphs 4.3 and 4.4 for the Monitoring Officer role and functions.

3. **Background**

3.1 Under the GLA Act 1999 (as amended) the GLA is required to have three statutory officers: a Head of Paid Service, a Monitoring Officer and a Chief Finance Officer.

3.2 The statutory officer posts have unique employment status within the Authority. They are the only three roles to which appointments must be made, and terms and conditions determined, by the Mayor and the Assembly acting jointly.

3.3 The Statutory Officers Protocol – Staffing, which has been approved by the Mayor and Assembly, sets out the recruitment process for the Statutory Officers.

3.4 The role of the Monitoring Officer was previously performed by Jeff Jacobs, Executive Director of Communities and Intelligence. On the 16 March 2011, the Mayor and Assembly jointly agreed to appoint Jeff Jacobs as Head of Paid Service. Statutorily, the Head of Paid Service cannot also be the Monitoring Officer and an appointment process for the role of Monitoring Officer is therefore now required. As the Authority must, in law, have someone acting in the role of Monitoring Officer at all times, the Mayor and Assembly, on 16 March 2011, agreed to appoint Ed Williams, Head of
Committee and Member Services and Deputy Monitoring Officer, to act as interim Monitoring Officer until the appointment process is complete. The Assembly at its meeting on 23 March 2011 referred the consideration of the appointment process for the Monitoring officer to this Committee.

4. **Issues for Consideration**

4.1 The Statutory Officers Protocol – Staffing states that:

The Mayor and the Assembly acting jointly may attribute the function/role of a statutory officer to an existing post occupied by an existing member of staff (and therefore designate that postholder as a statutory officer), without following an external recruitment and selection process. However, in these circumstances, the Head of Human Resources should, where appropriate, seek expressions of interest from appropriately senior and experienced officers/postholders as to their posts being attributed with the function of statutory officer, and

(i) in the event that there is only one suitable expression of interest, the postholder may be permanently designated as a statutory officer if the Mayor and the Assembly agree to the designation and terms and conditions; or

(ii) in the event that there is more than one suitable expression of interest, an appropriate selection and appointment process shall be determined by the Mayor and the Assembly’s staffing committee acting jointly.

4.2 Expressions of interest have been sought for the functions of the Monitoring Officer (set out at Appendix 1) from appropriate senior officers, and one has been received.

4.3 Following informal discussions with leading Assembly Members it is proposed that the applicant should be interviewed. In accordance with the Statutory Officers’ Protocol it is the Assembly’s staffing committee (the Business Management and Administration Committee) that establishes an appointments process and an informal Appointments Panel to interview the internal candidate and make a recommendation to the Assembly.

4.4 As the Appointments Panel is not a formal body the strict proportionality rules do not apply. The Panel recently established to undertake interviews for the roles of Head of Paid Service and Greater London Returning Officer, comprised 6 Members (2 Conservative Members, 2 Labour Members, 1 Liberal Democrat Member and 1 Green Member) who, collectively, make a recommendation to the full Assembly for decision. It is proposed that the composition of Assembly membership on the Panel for the Monitoring Officer should be the same. The Business Management and Administration Committee is also recommended to appoint Assembly Members to the Panel. It is for the Mayor to decide his representation (if any) on the Panel. The decision on the actual appointment is a joint decision of the full Assembly and the Mayor.

**Terms and conditions**

4.5 The Mayor and Assembly determined in March 2010, on the appointment of Jeff Jacobs to the Monitoring Officer role, that a supplement of £12,000 per annum should be paid to recognise the additional duties. It is proposed that this remain the same, if an appointment is made. All other terms and conditions are proposed to remain the same.
5. **Legal Implications**

5.1 The Mayor and the Assembly acting jointly must appoint a Monitoring Officer (section 73(1) of the GLA Act – as amended).

5.2 The terms and conditions of the employment of the Monitoring Officer are to be such as the Mayor and the Assembly acting jointly think fit (section 73(1C) of the GLA Act – as amended).

5.3 There is no express power within the GLA Act (as amended) for the Assembly to delegate functions that are exercisable jointly by them. Accordingly, the Mayor and the full Assembly must take the decision to appoint the Monitoring Officer, and determine the terms and conditions of appointment.

5.4 Section 73(1B) incorporates sections 7 and 8 of the LGHA in respect of the appointment of the Monitoring Officer who must be an employee of the Authority. Section 7 of the LGHA requires that staff must be appointed on merit. Section 8 of the LGHA requires relevant authorities to adopt standing orders in respect of staff, as required by regulations. The regulations made under section 8 of the LGHA do not strictly apply to the Authority, but the provisions and effect of those regulations that relate to statutory officers have been incorporated within the Statutory Officers Protocol – Staffing, which is incorporated into Standing Order 12 of the Authority’s standing orders. One set of regulations made under section 8 of the LGHA is the Local Authorities (Standing Orders) Regulations 1993/202. Generally speaking, these provide that where it is not proposed to appoint a statutory officer from existing members of the Authority’s staff, a recruitment and interview process must be conducted. These provisions are reflected in the Authority’s Statutory Officers Protocol – Staffing, which has been followed in this matter.

5.5 Section 5(1A) of the LGHA is applied to the Authority by virtue of section 73(1A)(b) of the GLA Act, and provides that the Authority’s Head of Paid Service cannot also be the Authority Monitoring Officer.

5.6 The Assembly and the Mayor have adopted the Statutory Officers Staffing Protocol, which sets out, prior to attributing the function or role of a statutory officer, that the Assistant Director – Human Resources & Organisational Development must seek expressions of interest from appropriately senior and experienced officers/post holders as to their posts being attributed with the function of a statutory officer. Paragraph 4.2 confirms that this has happened. The Statutory Officers Staffing Protocol also sets out how recruitment to the statutory officer posts may be conducted, in the event that there are two or more expressions of interest. Paragraph 4.2 of the Protocol does, however, provide that these recruitment procedures are subject to express decisions of the Mayor and / or the Assembly to the contrary. Accordingly, the proposals in paragraphs 4.3 and 4.4 above are permissible.

6. **Financial Implications**

6.1 As explained in paragraph 4.5 above, it is proposed to leave unchanged the supplement payable in recognition of the additional duties. There are no other financial implications arising from this report.
List of appendices to this report:

Appendix 1 - Functions of the Monitoring Officer

**Local Government (Access to Information) Act 1985**
List of Background Papers: None.

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