

West Surrey Shadow Authority		
Report title: Proper Officer Functions – Statutory Scrutiny Officer		
Report to: Constitution Sub-Committee Standards Committee Shadow Authority		
Date: 17 September 2026 22 October 2026 19 November 2026		
Executive Portfolio Holder: Cllr. Victoria Kiehl Contact Email: Victoria.Kiehl@westsurrey.gov.uk		
Report of Susan Sale, Monitoring Officer (interim), susan.sale@westsurrey.gov.uk		
Report author(s): Vicky Hibbert; Deputy Monitoring Officer (interim)		
Wards affected: ALL Ward councillors informed: No		
Exempt from publication: No		
Key Decision: No	If a Key Decision, date registered on Forward Plan: n/a	
Report cleared for publication by:		
People Workstream	N/A	N/A
Equalities Impact Assessment complete	N/A	N/A
Senior Responsible Officer (or their delegate)	N/A	N/A
S151 Officer	Susan Sale on behalf of Vicky Radford	11 September 2026
Monitoring Officer	Susan Sale	11 September 2026
Executive Portfolio Holder consultation	Cllr Victoria Kiehl	11 September 2026
Committee Chair consultation	Cllr Jo Shaw	11 September 2026

Head of Paid Service	Susan Sale on behalf of Andy Brown	11 September 2026
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1. Executive Summary

- 1.1 The Shadow Authority is required to set out its framework for Proper Officer functions for the areas that it has responsibility for during the shadow period, as set out in the Surrey (Structural Changes) Order 2026.
- 1.2 This report sets out a proposed change to the current Statutory Scrutiny Officer for the Shadow Authority following additional resource being provided to support the Overview and Scrutiny function during the shadow period.

2. Recommendations:

Constitution Sub Committee

It is recommended that the Constitution Sub-Committee resolve to:

- 2.1. **Endorse the proposed change to the current Designated Scrutiny Officer for the Shadow Authority from the Monitoring Officer (as set out in Part 3-C2, B 2.1 of the Constitution) to the Scrutiny Officer, and recommend this to the Standards Committee.**

Standards Committee

And if approved by the Constitution Sub Committee, it is recommended that the Standards Committee resolve to:

- 2.2. **Endorse the proposed change to the current Designated Scrutiny Officer for the Shadow Authority from the Monitoring Officer (as set out in Part 3-C2, B 2.1 of the Constitution) to the Scrutiny Officer, and recommend this to the Shadow Authority.**

Shadow Authority

And if approved by the Standards Committee, it is recommended that the Shadow Authority resolve to:

- 2.3. **Approve this proposal for inclusion within the West Surrey Shadow Authority Constitution with immediate effect.**

3. Reason(s) for recommendation:

- 3.1 Allocation of Proper Officer functions will bring clarity and transparency as to where the responsibility for those functions rests, to ensure that it is clearly

documented so that decisions are taken by the appropriate decision maker with the necessary authority.

- 3.2 It is best practice to have separation of roles and responsibilities and for the role of the Statutory Scrutiny Officer to sit separately from the Monitoring Officer role to enable independence between their functions.

4. Next steps

- 4.1. Comments and feedback received from the Constitution Sub-Committee on 17 September 2026 will go to the Standards Committee on 22 October 2026. If approved by the Constitution Sub-Committee and the Standards Committee then this proposal will be presented to the Shadow Authority for consideration and if approved will form part of the West Surrey Shadow Authority Constitution.

5. Exemption from publication

- 5.1. None of this report is exempt from publication.

6. Background and Proposal

- 6.1 The Local Government Act 1972 and other legislation makes provision for certain officers to be designated by their authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament. A "Proper Officer", in relation to any purpose and any local authority, means the officer appointed for that purpose by that authority.
- 6.2 In addition, certain legislation requires local authorities to make specific statutory appointments which carry defined responsibilities. The three principal statutory appointments are the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
- 6.3 The role of the Designated Scrutiny Officer is considered a Proper Officer function under the Local Government Act 2000 (Section 9FB). Its role is to promote the functions of the authority's overview and scrutiny committee, provide support to that committee and its members and provide advice and guidance to all members (including the executive) and officers on scrutiny matters.
- 6.4 The West Surrey Shadow Authority constitution sets out a list of Proper Officers in Part 3-C2, B 2.1 for functions that are within its remit during the shadow period. At the point where the Shadow Constitution was approved, the Monitoring Officer was designated as the Statutory Scrutiny Officer.
- 6.5 Following the establishment of the West Surrey Overview and Scrutiny Committee, additional resource has been allocated to support scrutiny through designating a dedicated Scrutiny Officer to provide support and fulfil the Statutory

Scrutiny Officer role. An appointment has been made, on an interim basis, until vesting Day, by the Head of Paid Service, for a Scrutiny Officer for West Surrey Shadow Authority.

6.6 Authorities can choose which role to allocate the statutory scrutiny officer role to and this varies. However sector best practice is clear that this should not be the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

6.7 As there is now a dedicated resource in place, members are asked to approve a change to the Proper Officer function list within Part 3-C2, B 2.1 of the West Surrey Shadow Authority Constitution to allocate the Scrutiny Officer as the Statutory Scrutiny Officer in place of the Monitoring Officer.

7. Consultation

7.1. Consultation has been undertaken with the relevant Portfolio Holder and their comments may be fed back verbally to the Constitution Sub Committee at its meeting.

8. Key Risks

8.1. If the Council does not decide the allocation of its Proper Officer functions, there is a risk of uncertainty as to where responsibility for those functions lies. This could lead to decisions being taken by a body or person without the necessary authority. This could in turn result in decisions being open to legal challenge.

8.2. Having separation of roles and responsibilities is important to ensure that scrutiny remains independent in its role. If the Monitoring Officer continues to undertake the Designated Scrutiny Officer role then this does not align with sector best practice.

9. Options

9.1. Recommend the proposed change to the Shadow Authority's Designated Scrutiny Officer to the Standards Committee and following endorsement, onto the Shadow Authority for approval and inclusion in the Constitution. This is the **preferred option**.

9.2. Do not recommend the proposed change to the Shadow Authority's Designated Scrutiny Officer for onward progression to the Standards Committee. This is **not recommended**.

10. Issues for Consideration

10.1. Financial Implications

- 10.1.1. There are no direct financial implications arising from the proposed action set out in this report.

10.2. Legal Implications

- 10.2.1 The legal implications are set out through this report.

10.3. Monitoring Officer Commentary

- 10.3.1. As the report explains, there should be separation between the roles of the Scrutiny Officer and the Monitoring Officer, and now that resource has been allocated and a dedicated Scrutiny Officer appointed on an interim basis for the remainder of the Shadow Period, it is right that they are designated the Statutory Scrutiny Officer and that this be reflected in the Designation of Proper Officers within the Shadow Authority's Constitution.

10.4. People/Human Resources Implications

- 10.4.1 There are no direct People or Human Resources implications arising from this report.

10.5. Equality and Diversity Implications

- 10.5.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 10.5.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 10.5.3 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report. Equality and Diversity implications will be considered separately in respect of the exercise of the functions which are allocated by this report.

10.6. Climate Change and Sustainability Implications

- 10.6.1 There are no climate change and sustainability impacts arising directly from this report.

10.7. Stakeholder Implications

- 10.7.1 None anticipated.

11. Overview & Scrutiny Comments

- 11.1 The Chair of the Overview and Scrutiny Committee is supportive of this proposal and the additional capacity and resource being allocated to Overview and Scrutiny in the Shadow Authority.

12. List of Appendices

- 12.1 None

13. List of Background papers

- 13.1 West Surrey Shadow Authority Constitution