



REPORT OF:	CHIEF EXECUTIVE
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TO:	EMPLOYMENT COMMITTEE
DATE:	29 August 2018

WARD (S) AFFECTED:	None
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SUBJECT:	APPOINTMENT OF INTERIM MONITORING OFFICER
RECOMMENDATION: That in accordance with Section 5 of the Local Government and Housing Act 1989 that Council be asked to confirm the appointment of Mr John Jones, as the Council's Interim Monitoring Officer until such time a permanent appointment has been made.	
REASONS FOR RECOMMENDATIONS: To comply with the requirements of the Local Government & Housing Act 1989 (as amended).	
EXECUTIVE SUMMARY: This report invites the Council to appoint an Interim Monitoring Officer in accordance with statutory requirements.	

The above recommendation is subject to agreement of Council

STATUTORY POWERS

1. Under Section 5 of the Local Government & Housing Act 1989 (as amended), the Council has a duty to appoint a Monitoring Officer. Neither the Head of Paid Service nor the Chief Finance Officer can hold the position of Monitoring Officer. There is no statutory requirement for the position to be held by a legally qualified officer.
2. The Monitoring Officer has a number of statutory duties and responsibilities relating to the Council's Constitution and our arrangements for effective governance. These duties include maintaining the Constitution, ensuring that no decision or omission of the Council is likely to give rise to illegality or maladministration and promoting high standards of conduct. A full list of the Monitoring Officer's responsibilities and delegated powers is included within the Councils' Constitution (attached at Annex 1).

3. Article 13(3) of the Constitution provides that it is the responsibility of full Council to designate the Monitoring Officer. Employment Procedure Rules state that the appointment should be on the recommendation of the Employment Committee.

BACKGROUND

4. The Council ended a Legal Services Partnership with Spelthorne BC on 31 March 2017. Following the end of this shared service, the existing Head of Legal Services and Monitoring Officer remained with Spelthorne BC, and therefore ceased to fulfil these roles for the Council.
5. Following this, the Head of Corporate Policy & Performance, and Deputy Monitoring Officer, Mr Gavin Handford, operated as Head of Legal and fulfilled the Monitoring Officer role until the confirmation of a new appointment.
6. From 13 April 2017, Mr Gavin Handford was appointed, and subsequently reappointed, as interim Monitoring Officer for periods from 13 April 2017, 2 November 2017 and 26 April 2018, following Council approval of recommendations by the Employment Committee.
7. Mr Gavin Handford will be departing the Council as of 31 August 2018 and the Employment Committee is therefore requested to make a further recommendation on the appointment of the Monitoring Officer.
8. The Council has recently recruited a new interim Head of Legal, Mr John Jones who is also managing the Democratic Services and Electoral Services Teams.
9. Mr Jones has extensive experience, at a senior level, both in providing legal support for Local Authorities, and in supporting the Corporate Governance functions of Councils in the following roles:
 - Head of Corporate Law and Deputy Monitoring Officer at a County Council.
 - Head of Legal, Democratic and Regulatory Services, Monitoring Officer and Returning Officer at a District Council
 - Head of Law and Governance, Monitoring Officer and Returning Officer at a Unitary Council
 - Director of Corporate Services for an NHS Foundation Trust
 - He worked with a London Borough Council delivering business transformation programmes
 - He was seconded to work with a foreign government to review its governance arrangements
 - He has sat on government working groups and contributed to the work of a Commons Select Committee
10. Mr Jones will be in post on an interim basis, and will therefore only be in a position to fulfil the role of Monitoring Officer for this interim period.
11. It is therefore recommended that Mr Jones be appointed as the Council's interim Monitoring Officer and to cover the period until such time as a permanent appointment has been made.
12. This proposal is subject to Recommendation to Full Council on 26 September 2018. In the event that the Committee support the recommendation Mr Jones would be able to undertake the Monitoring Officer duties in an advisory capacity until the matter has been considered by Full Council. In the interim period both Mari

Roberts-Wood and Kuldip Chana are existing Deputy Monitoring Officers who can cover any eventualities arising in this period.

13. Progress in preparing the Job Description and Person Specification for the permanent Head of Legal Services and Monitoring Officer roles is well underway. If these are available in time for the meeting drafts will be shared with Members for comments at this stage. If they are not available then there will be a verbal update on their progress and the arrangements for Members to consider them further will be proposed.

OPTIONS

14. The options are either:
 - to appoint Mr John Jones as the Monitoring Officer;
 - to appoint Mr John Jones as the Monitoring Officer on an interim basis - this is the recommended option; or
 - to appoint another Officer of the Council - this is not recommended as there are advantages to appointing the Head of Service with responsibility for legal and democratic services as Monitoring Officer.

LEGAL IMPLICATIONS

15. There are no additional legal implications other than those set out elsewhere in the report.

FINANCIAL IMPLICATIONS

16. There are no financial implications arising from the report.

EQUALITIES IMPLICATIONS

17. There are no specific equalities implications arising from this report.

CONSULTATION

18. The Leader and Deputy Leader of the Council have been consulted on this report.

POLICY FRAMEWORK

19. There are no policy implications.

Background Papers: None

Annex 1

Extract from the Constitution: Functions of the Monitoring Officer

Maintaining the Constitution

- 1.1.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public.

Ensuring Lawfulness and Fairness of Decision Making

- 1.1.2 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council (or to the Executive decision maker in relation to an Executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

Supporting the Standards Committee

- 1.1.3 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

Conducting Investigations on Alleged Breaches of the Member Code of Conduct

- 1.1.4 The Monitoring Officer will conduct investigations in accordance with the adopted arrangements and make reports in respect of them as appropriate to the Standards Committee.

Proper Officer for Access to Information

- 1.1.5 The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

Advising whether Executive Decisions are within the Policy Framework and Budget

- 1.1.6 The Monitoring Officer after consultation with the Chief Finance Officer, as appropriate, will advise whether Executive decisions are in accordance with the budget and policy framework.

Providing Advice

- 1.1.7 The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

Restrictions on Posts

- 1.1.8 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

Complaints

- 1.1.9 The Monitoring Officer will act as the Corporate Complaints Officer.

Deputy Monitoring Officers

- 1.1.10 The Monitoring Officer may appoint one or more Deputies to undertake their responsibilities in his/her absence,