

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Report to Council
Date: 23 February 2021
Reporting officer: Chief Executive
Subject: Appointment of Interim Monitoring Officer

Purpose and summary of report:

This report invites the Council to appoint an Interim Monitoring Officer in accordance with statutory requirements.

Recommendations:

That in accordance with Section 5 of the Local Government and Housing Act 1989 that Council be asked to confirm the appointment of Jan Guyler, as the Council's Interim Monitoring Officer which at the time of writing is expected to commence from 30 April 2021 and to last until such time a permanent appointment has been made and reported back to Full Council for consideration.

1. Summary

- 1.1 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.
- 1.2 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.
- 1.3 The Council's Constitution stipulates that the designation of the Monitoring Officer role can only be made by Full Council and it is a function that cannot be delegated.

2. Background

- 2.1 The Council entered into a Shared Legal Service arrangement with Medway Council on 1 April 2017. At the meeting of council on 21 February 2017 Council resolved that the existing Chief Legal Officer and Monitoring Officer for Medway Council, Mr Perry Holmes, was formally designated as the Monitoring Officer for Gravesham Borough Council with effect from 1 March 2017
- 2.2 Mr Holmes is moving from his employment with Medway Council on 29 April 2021 (correct as at the time of writing). Therefore there must be arrangements put in place for a monitoring officer to be appointed with effect from 30 April 2021.
- 2.3 There is insufficient time until the next full council meeting for Medway Council to complete a recruitment campaign before the conclusion of the postholder's notice period. As such, it is deemed necessary to put in place an interim arrangement, pending a substantive appointment being made by Medway Council and the subsequent approval required for Full Council.
- 2.4 This interim arrangement seeks to appoint Mrs Jan Guyler, the Head of the Shared Legal Service, as the Council's Interim Monitoring Officer from 30 April 2021 (or sooner should Perry Holmes' leaving date be brought forward for any reason) until such time as a permanent appointment has been made by Medway Council, and that the appointment to Monitoring Officer for Gravesham being subsequently considered by Full Council.

3. Constitutional Implications

- 3.1 Having reviewed the Constitution, it is considered that there are no required changes where references are made to the Monitoring Officer as the post will still exist, albeit with a different officer in the post.

4. Background Papers

- 4.1 Background papers pertaining to this report are as follows:

Report to Council on 21 February 2017 regarding the Role of the Monitoring Officer

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
Legal	<p>Any resulting partnership arrangement will be made pursuant to Section 101 of the Local Government Act 1972, which allows a local authority to may arrange for the discharge of any of their functions by any other Local Authority and Section 113 which allows the authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties.</p> <p>The Council's Constitution stipulates that the designation of the Monitoring Officer role can only be made by Full Council and it is a function that cannot be delegated.</p>
Finance and Value for Money	There are no financial implications
Risk Assessment	The council is required to have an appointed monitoring officer in place. The Chief Legal Officer and Monitoring Officer for Medway Council and Gravesham's monitoring officer is due to leave Medway council's employment on 29 April 2021. It is therefore necessary to ensure that there is an appointed monitoring officer in place with effect from 30 April 2021. Only Full Council can make this appointment.
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. N/A</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Corporate Plan	#3 Progress: an entrepreneurial authority; commercial in outlook and committed to continuous service improvement, underpinned by a skilled workforce and strong governance environment.

Crime and Disorder	There are no specific crime and disorder implications resulting from this report
Digital and website implications	There are digital and website implications resulting from this report.
Safeguarding children and vulnerable adults	There are no safeguarding children and vulnerable adults resulting from this report.