

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Full Council
Date: 5 October 2021
Reporting officer: Chief Executive
Subject: Appointment of Monitoring Officer

Purpose and summary of report:

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

Recommendations:

1. That in accordance with Section 5 of the Local Government and Housing Act 1989 that Council be asked to confirm the appointment of Bhupinder Gill, as the Council's Monitoring Officer with effect from 6 October 2021.

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 Council's 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 moved from his employment with Medway Council on 29 April 2021. In anticipation of this change the Council resolved on 23 February 2021 to appoint Mrs Jan Guylor, the Head of the Shared Legal Service, as the Council's Interim Monitoring Officer from 30 April 2021 until such time as a permanent appointment had been made by Medway Council, and that the appointment to Monitoring Officer for Gravesham being subsequently considered by Full Council.
- 2.3 The recruitment campaign by Medway Council has concluded with the appointment of Mr Bhupinder Gill as Assistant Director – Legal & Governance and Monitoring Officer. Gravesham Borough Council therefore seeks to formally designate Mr Bhupinder Gill as the Council's Monitoring Officer. The Monitoring Officer reports to the Chief Executive.
- 2.4 On the basis that Medway Council are placing their officers at the disposal of another local authority (S113 Local Government Act 1972) each Monitoring Officer will enter into a Secondment Agreement with Medway Council to cover the period of their appointment.

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, and
 - Report to Court on 23 February 2021 regarding the Appointment of Interim 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 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 left Medway Council's employment on 29 th April 2021. Mrs Jan Guylar was appointed as Interim Monitoring Officer from 30 April 2021 while Medway Council recruited to the post. That recruitment campaign has now concluded so the Council can appoint Medway Council's Monitoring Officer. 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.

Climate Change	There are no climate change implications resulting from this report.
Crime and Disorder	There are no specific crime and disorder implicaitons 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 issues resulting from this report.