

# Gloucester City Council

<b>Meeting:</b>	<b>Senior Appointments Committee Council</b>	<b>Date:</b>	<b>20 July 2016 21 July 2016</b>
<b>Subject:</b>	<b>Designation of Monitoring Officer</b>		
<b>Report Of:</b>	<b>Head of Paid Service</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>Jon McGinty, Managing Director</b>		
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<b>Appendices:</b>	<b>None</b>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

1.1 To designate a Monitoring Officer.

### 2.0 Recommendations

2.1 Senior Appointments Committee is asked to **RESOLVE TO RECOMMEND TO COUNCIL** that

- (1) Jonathan Lund, Corporate Director, be designated as Monitoring Officer for the City Council in accordance with section 5 of the Local Government and Housing Act 1989 with immediate effect.
- (2) Authority be delegated to the Monitoring Officer to vary the secondment agreement between Gloucester City Council, Tewkesbury Borough Council (One Legal) and Shirin Wotherspoon to provide legal advice and related services to the Monitoring Officer including, but not only, the services of a legally qualified Deputy Monitoring Officer.

2.2 Council is asked to **RESOLVE**

- (1) To designate Jonathan Lund, Corporate Director, as Monitoring Officer for the City Council in accordance with section 5 of the Local Government and Housing Act 1989 with immediate effect.
- (2) To delegate authority to the Monitoring Officer to vary the secondment agreement between Gloucester City Council, Tewkesbury Borough Council (One Legal) and Shirin Wotherspoon to provide legal advice and related services to the Monitoring Officer including, but not only, the services of a legally qualified Deputy Monitoring Officer.

### **3.0 Background and Key Issues**

- 3.1 The Local Government and Housing Act 1989, Section 5, requires all local authorities to designate one of their officers as the “Monitoring Officer”. The Act specifically excludes the Head of Paid Service and the Chief Finance Officer (Section 151 Officer) from being the Monitoring Officer, although any other officer of the Council can be appointed.
- 3.2 The Act imposes a duty on the Monitoring Officer, if at any time there appears to the Monitoring Officer that any proposal, decision or omission of the Council, or Committee etc. either has given rise to, or is likely to give rise to, a breach of any law, or any maladministration as would be dealt with by the Ombudsman, to prepare a report to the Council specifying the contravention.
- 3.3 The Monitoring Officer also has a number of responsibilities arising from the Localism Act 2011 relating to Councillor conduct (City and its Parish Council). These responsibilities include dealing with complaints on the Code of Conduct, as well as providing training for Members thereon. There is a close connection with the S151 Officer and Internal Audit and the Monitoring Officer is a member of the Corporate Governance Group.
- 3.4 The current functions of the Monitoring Officer are specified in the Constitution, including the Monitoring Officer’s Protocol although some of these may be assigned to other officers by the Managing Director. There is no statutory requirement for the Monitoring Officer to be a Solicitor.
- 3.5 Following the departure of the City Council’s Monitoring Officer in June 2015 One Legal was engaged to provide the Monitoring Officer function for Gloucester City Council for an interim period of one year – to July 2016. During that period the Monitoring Officer function has been provided by Shirin Wotherspoon, a member of the One Legal Management Team and the designated lead lawyer from One Legal for the City Council.
- 3.6 As a consequence of the recruitment of new Corporate Directors, one of the new Directors has recent past experience of acting as Monitoring Officer at a local authority. Prior to his appointment as Corporate Director at Gloucester City Council Jonathan Lund was the Monitoring Officer at Selby District Council for 8 years. This allows the Council to consider designating the Monitoring Officer role to an experienced officer directly employed by the City Council.
- 3.7 This possibility has been discussed and agreed with One Legal and the current Monitoring Officer. It would allow Shirin to refocus her work on a busy portfolio of commercial law across the One Legal partnership as well as to conduct the role of the lead lawyer for the City Council. The proposal would save the City Council £20,000 per annum
- 3.8 The Monitoring Officer has the authority to appoint deputies. Tanya Davies (Democratic Services Manager) has served as Deputy MO for the past year and it is proposed that this appointment would continue. In addition, and to ensure that the MO continues to have access to legal advice and associated services it is proposed to retain the services of One Legal and Shirin Wotherspoon as a second Deputy MO.

#### **4.0 Alternative Options Considered**

- 4.1 The secondment arrangement with One Legal could continue. The arrangement costs £28,500 pa based upon an average of one day per week plus additional responsibility allowances. However, this option would miss an opportunity to use the experience of a newly recruited senior officer, make a saving and allow the existing MO to refocus her skills on a busy portfolio of legal work,

#### **5.0 Reasons for Recommendations**

- 5.1 It is a legal requirement that the Council designates an officer as the Council's Monitoring Officer. The Head of Paid Service advises that designating Jonathan Lund as Monitoring Officer is the best solution for the Council of the available options, and will allow the strong working relationships already in place between One Legal and the Council to continue.

#### **6.0 Financial Implications**

- 6.1 The current secondment arrangements cost £28,500pa. It is proposed that on ongoing retainer to continue to secure direct legal advice and services relating to the Monitoring Officer function, including the appointment of Shirin Wotherspoon as a Deputy MO, will cost £8,500pa. The net annual saving to the City Council will be £20,000.

(Financial Services have been consulted in the preparation this report.)

#### **7.0 Legal Implications**

- 7.1 These are contained in the main body of the report.

(One Legal have been consulted in the preparation this report.)

#### **8.0 Risk & Opportunity Management Implications**

- 8.1 If a Monitoring Officer is not in post, the Council would be in breach of Section 5 Local Government and Housing Act 1989.

#### **9.0 People Impact Assessment (PIA):**

- 9.1 None.

#### **10.0 Other Corporate Implications**

##### Community Safety

- 10.1 None.

##### Sustainability

10.2 None.

Staffing & Trade Union

10.3 The Local Government and Housing Act 1989 requirement that the person designated as Monitoring Officer is an officer of the Council would be met by the appointment of an employee of the City Council.

**Background Documents:** None