

# Gloucester City Council

<b>Meeting:</b>	<b>Council</b>	<b>Date:</b>	<b>24 May 2021</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>	<b>Email:</b>	<b>jon.mcginty@gloucester.gov.uk Tel: 39-6200</b>
<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 Council is asked to **RESOLVE** that

- (1) Patrick Arran be designated Monitoring Officer for the City Council in accordance with section 5 of the Local Government and Housing Act 1989 with immediate effect for an interim period of up to 6 months but no more than 12 months.
- (2) To enter into an agreement to second the above mentioned officer from Stroud District Council to Gloucester City Council on terms to be agreed between Stroud District Council, Gloucester City Council and the officer.
- (3) To delegate authority to the Managing Director to agree the terms of the secondment and to sign the secondment agreement on behalf of Gloucester City Council and to make any necessary consequential amendments to the Council's Constitution arising from the agreed terms and any re-assignment of the current Monitoring Officer functions.

### 3.0 Background and Key Issues

3.1 The existing Monitoring Officer (Jonathan Lund) ceased working for the Council on 10 May 2021. 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, although the majority are given a Solicitor's training and role within a Council.
- 3.5 Patrick Arran is currently contracted with Stroud District Council and Tewkesbury Borough Council (One Legal) to provide Monitoring Officer and other legal services to Stroud on a part-time 2.5 days/week basis, and until end April was similarly engaged for the rest of his working week by Cotswold District Council. Having now concluded his engagement with Cotswold DC, it is proposed to contract with Mr Arran on 2.5 days/week basis to provide Monitoring Officer and other reasonably directed services to Gloucester City Council. Mr Arran has considerable local authority legal and other Director-level experience and also considerable experience of the requirements of a Council Monitoring Officer.
- 3.6 It is proposed to contract with Mr Arran for an initial period of 6 months, up to the end of October 2021. This is in order to enable the Head of Paid Service to consider over this timescale the future shape of leadership arrangements at the City Council following the departure of its two corporate directors.

#### **4.0 Social Value Considerations**

- 4.1 Not applicable

#### **5.0 Environmental Implications**

- 5.1 Not applicable

#### **6.0 Alternative Options Considered**

- 6.1 The option of designating an officer already within the Council was considered but discounted on the basis of short-term capacity pressures plus the need to consider any potential new permanent appointments to the Council's senior management team first.
- 6.2 One Legal were approached to see if they could offer these services on an interim basis but also had capacity pressures that meant they were unable to do so.

## **7.0 Reasons for Recommendations**

- 7.1 It is a legal requirement that the Council designates one of their Officers as Monitoring Officer. The Head of Paid Service advises that designating Patrick Arran as Monitoring Officer in the terms detailed within this report will provide a better solution for the Council than other options.

## **8.0 Future Work and Conclusions**

- 8.1 The recommended designation will be an interim one, subject to review within the next twelve months, to enable the Head of Paid Service to consider over this timescale the future shape of leadership arrangements at the City Council, and the Monitoring Officer function will be part of that review.

## **9.0 Financial Implications**

- 9.1 It is proposed to contract with Mr Arran for an average of around 2.5 day per week (the intention is that MO support would be available at any time during the working week as needed), initially for six months. This additional cost can be met through some of the savings arising from holding over Corporate Director vacancies following the recent retirement of Mr Lund and the impending departure of Anne Brinkhoff.

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

## **10.0 Legal Implications**

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

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

## **11.0 Risk & Opportunity Management Implications**

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

## **12.0 People Impact Assessment (PIA) and Safeguarding:**

- 12.1 None.

## **13.0 Community Safety Implications**

- 13.1 None

## **14.0 Staffing & Trade Union Implications**

- 14.1 The Local Government and Housing Act 1989 effectively requires the person designated as Monitoring Officer to be employed by the Council. There will therefore be a need to second Patrick Arran to the City Council on terms to be agreed between the parties in order to undertake this aspect of his work for the Council.

**Background Documents:** None