

Gloucester City Council

Meeting:	Council	Date:	23 September 2021
Subject:	Designation of Monitoring Officer		
Report Of:	Head of Paid Service		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Jon McGinty, Managing Director		
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Appendices:	None		

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) Stephen Taylor be designated Monitoring Officer for the City Council in accordance with section 5 of the Local Government and Housing Act 1989 with effect from 1 October 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.
- (4) To note that the Managing Director took an urgent decision on 13th August 2021 to appoint Jodie Townsend as Interim Monitoring Officer for the period 16 August 2021 until 30 September 2021.

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, although the majority are given a Solicitor's training and role within a Council.
- 3.5 Council resolved on 24th May 2021 to designate Patrick Arran as interim Monitoring Officer for a period of up to 12 months. Mr Arran subsequently undertook this role for a number of months; however he was offered a permanent position elsewhere which he accepted and ceased working for the Council (and Stroud District Council) on 13th August 2021. The Managing Director and his equivalent in Stroud District Council undertook a recruitment process for a replacement interim Monitoring Officer and identified Stephen Taylor as a suitable replacement for Patrick Arran. Mr Taylor is a highly experience solicitor with over 35 years' experience as a solicitor in the public sector and 21 years' experience as a Director of Law and Democratic Services. He has performed the role of Monitoring Officer in a number of Councils including most recently at Swindon Borough Council.
- 3.6 Having considered the current resource requirement for a Monitoring Officer in Gloucester City Council, it is proposed to contract with Mr Taylor on 1 day/week basis. It is proposed to contract with Mr Taylor for an initial period of 6 months, but no more than 12 months. 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.
- 3.7 Due to other assignments, Mr Taylor is not available to start with Gloucester City until 1st October 2021. Therefore, the Managing Director took an urgent decision on 13th August 2021, in line with his delegated authority as set out in the constitution, to appoint Jodie Townsend as Interim Monitoring Officer for the period 16 August 2021 until 30 September 2021, also on a 1 day/week basis. Mr Townsend is similarly experienced in legal, democratic and governance matters and has worked for a number of councils and related organisations, including most recently Oxfordshire County Council, Basingstoke and Deane Council and West Midlands Combined Authority.

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 Stephen Taylor 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 Taylor for an average of around 1 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 cost can be met through some of the savings arising from holding over Corporate Director vacancies following the recent retirement of Mr Lund and Mrs Brinkhoff, and provides a saving in comparison to the 2.5 days a week engagement of Mr Arran.

(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 Stephen Taylor 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: 24 May 2021 Council Report: Designation of Interim Monitoring Officer