

# Gloucester City Council

<b>Meeting:</b>	<b>Council</b>	<b>Date:</b>	<b>25 January 2024</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 Council is asked to **RESOLVE** that

- (1) It be noted that Alice McAlpine has given notice of her resignation from Tewkesbury Borough Council and as Gloucester City Council's Monitoring Officer with effect from 28 January 2024.
- (2) Tom Clark be designated Monitoring Officer for the City Council in accordance with section 5 of the Local Government and Housing Act 1989 with effect from 29 January for an interim period of up to 6 months but no more than 12 months.
- (3) To enter into an agreement to second the above-mentioned officer from Tewkesbury Borough Council to Gloucester City Council on terms to be agreed between Tewkesbury Borough Council, Gloucester City Council and the officer.
- (4) 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 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 26<sup>th</sup> January 2023 to designate Alice McAlpine as Monitoring Officer. Ms McAlpine has successfully undertaken this role since then, however she has now resigned from both One Legal and as the City Council's Monitoring Officer, to take effect from 28<sup>th</sup> January 2024. The Managing Director has consulted the Director of One Legal and they have identified Tom Clark as a suitable replacement for Ms McAlpine on an interim basis. Mr Clark is a highly experienced solicitor with over 37 years' experience as a solicitor in private practice and in the public sector and has been a Council Monitoring Officer for over 20 years in four different councils. He is currently also Monitoring Officer at Tewkesbury 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 Clark on a 2.5 day/week basis (he would continue to work for Tewkesbury Borough Council for 2.5 days/week). It is proposed to contract with Mr Clark 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 post May 2024 elections the future requirements from a Monitoring Officer post.

#### **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 capacity pressures.

6.2 There is insufficient time to go out to external direct recruitment and appoint by the end of January 2024. Equally, an appointment of an existing One Legal officer is considered better value for money than recruiting an interim Monitoring Officer via a third-party recruitment agency.

## **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 Tom Clark 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 post May 2024 elections the future requirements from a Monitoring Officer post.

## **9.0 Financial Implications**

9.1 It is proposed to contract with Mr Clark for an average of 2.5 days 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 is the same quantum of resource as currently provided by Ms McAlpine who has also been seconded for 2.5 days per week, and reflects the best assessment of the current resource requirement for this post.

(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 Tom Clark 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:** 26<sup>th</sup> January 2023 Council Report: Designation of Monitoring Officer