

APPOINTMENT OF THE COUNCIL'S MONITORING OFFICER

Council	13 July 2023
Previously considered by:	General Purposes Committee 10 July 2023
Report Author	Colin Carmichael, Chief Executive
Portfolio Holder	Councillor Rick Everitt, Leader of Council
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Ward:	Thanet Wide

Executive Summary:

The report is asking the Council to consider recommendations from the General Purposes Committee regarding the appointment of a substantive Monitoring Officer, whilst recognising the need to keep the current interim arrangements cover in place.

Recommendations:

Full Council is asked to consider the recommendation from General Purposes, this will be shared at the meeting.

Corporate Implications

Financial and Value for Money

There are no financial implications arising directly from this report. The Council has a statutory duty to make the appointment.

Legal

The role of a Monitoring Officer is a statutory appointment and by implication means that the Council must appoint to that role in order to be legally compliant with the Local Government and Housing Act 1989.

The Council is required to have a Head of Paid Service in place as one of its three statutory roles, together with the Chief Financial Officer and Monitoring Officer further to Section 5 of the Local Government and Housing Act 1989 which states:

5. Designation and reports of the Monitoring Officer.

(1)

It shall be the duty of every relevant authority—

- (a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section [F1and, where relevant, section 5A below]; and
- (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties [F2and, where relevant, the duties under section 5A below] to be performed;

and the officer so designated may be the head of the authority’s paid service but shall not be their chief finance officer.

Risk Management

Although the report is recommending the appointment of a substantive Monitoring Officer there currently is an interim arrangement where an Interim Monitoring Officer is in post carrying out those duties required of this post. Furthermore, the report recommends that the deputy Monitoring Officer should cover the role should the interim Monitoring Officer leave the council before the permanent appointment begins their roles at TDC. These recommendations mitigate the risk that the statutory position of Monitoring Officer would be vacant for any period of time.

Corporate

The appointment of a Monitoring Officer on a permanent basis would ensure that one of the key statutory roles for the proper administration of council functions is in place in accordance with the statutory requirement.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.

- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

There are no equality implications that arise directly from this report. The Council has had due regard to its Equality duty and the issues of diversity and inclusion to be promoted amongst the local community to ensure that the appointment recommendation secures service delivery that is consistent with its equality duty.

Corporate Priorities

This report relates to the following corporate priorities: -

- *Growth*
- *Environment*
- *Communities*

1.0 Introduction and Background

- 1.1. Under the Constitution, the appointment of the Council's Monitoring Officer (MO) is reserved to Council. In Thanet, that is carried out by way of a recommendation from the General Purposes Committee. This recommendation will be presented to Council at this meeting.

2.0 The Current Situation

- 2.1 The position of MO is statutory, by which I mean that a Council must appoint a person to that position. The role, in summary, is to oversee the operation of the Constitution, and the Standards arrangements for the District, Town and Parish Councils in the Thanet area. As a result, the post is almost always held by the most senior qualified lawyer in a Council, although it is not a legal requirement that a qualified lawyer must hold the position.
- 2.2 The current MO is Sameera Khan, who is the interim Head of Legal and Democracy. Her Deputy MO is Nick Hughes, the Democratic Services Manager.
- 2.3 A permanent appointment has now been made to the post of Head of Legal and Democracy. The appointee is Ingrid Brown, currently Head of Legal at Bournemouth, Christchurch and Poole Council. I expect Ingrid to commence her appointment with us in early October - before the meeting of Council in October. It is, therefore, necessary to ask Council to approve her appointment as MO in advance of her starting with us.
- 2.4 As Interim Head of Legal and Democracy, Sameera Khan may stay with us until Ingrid's appointment. Under those circumstances, she will remain as MO until Ingrid's first day of service.

- 2.5. If Sameera leaves before Ingrid starts with us, then Nick Hughes will cover the position of MO until Ingrid's first day of service.

3.0 Options

- 3.1 Members are being asked to consider the recommendation from GPC.
- 3.2 As the recruitment process has been followed to identify a candidate for the role of Monitoring Officer there are no other options being offered to the Committee other than the one in para 3.1 above.

4.0 Decision Making Process

- 4.1 The General Purposes Committee will make a recommendation to the Full Council regarding the appointment of the Monitoring Officer. This recommendation will then be considered by the Full Council at its meeting on the 13 July 2023.

Contact Officer: Colin Carmichael, Interim CEx
Reporting to: Cllr Rick Everitt, Leader of Council

Corporate Consultation

Finance: Chris Blundell (Director of Corporate Services - Section 151)

Legal: Jennifer Phillips (Principal Litigation Lawyer)