

Cheltenham Borough Council
Council
18 October 2021
Appointment of Interim Monitoring Officer

Accountable member	Councillor Rowena Hay, Chair of Appointments & Remuneration Committee
Accountable officer	Gareth Edmundson
Ward(s) affected	None
Key/Significant Decision	No
Executive summary	<p>Following formal notification from Tewkesbury Borough Council to terminate the Secondment Agreement of the Monitoring Officer (MO) in June 2021, a review of potential options to fill the post was considered.</p> <p>The Appointments & Remuneration committee met at the end of September and recommended to Council to appoint an interim Monitoring Officer for a period of approximately 6 months (subject to a permanent recruitment). This would allow for a further assessment of need, particularly in light of the council's current organisational review.</p> <p>This report sets out the background to the appointment of an interim and outlines the process to appoint to a permanent post.</p>
Recommendations	<p>Council is asked to resolve:</p> <ol style="list-style-type: none">1.1. That with immediate effect, Howard Norris be appointed as interim Monitoring Officer for the Borough Council in accordance with section 5 of the Local Government and Housing Act 1989. This will be for a period of approximately 6 months or until a permanent MO is recruited1.2. To note that following the completion of an appropriate review, the Appointments & Remuneration (A&R) sub-committee will progress with the recruitment of a permanent MO to be put forward to Full Council for approval in due course. If CBC elects to appoint a permanent MO shared with another authority, interview panels will be agreed in consultation with the A&R sub-committee and partnering authority.

Financial implications	<p>Monitoring Officer is a statutory post. Previously, the post of Monitoring Officer has been provided by secondment from Tewkesbury Borough Council. With the current MO electing to return full time to Tewkesbury Borough Council, this has resulted in a variation to the partnership agreement with One Legal.</p> <p>However, more funding may need to be identified to cover the total cost of an interim MO and a future permanent position. Our budget monitoring process will include any additional in-year cost of this change and a proposal for how this can be funded. The process of implementing the Council's operating model will enable the council to allocate appropriate funding for this post on a permanent basis.</p> <p>Contact officer: Gemma Bell gemma.bell@cheltenham.gov.uk</p>
Legal implications	<p>By law the Council must appoint a Monitoring Officer.</p> <p>Under the Constitution the Appointments and Remuneration Committee is responsible for the appointment of a Monitoring Officer but Full Council must approve the appointment.</p> <p>Contact officer: One Legal legalservices@onelegal.org.uk 01684 272012</p>
HR implications (including learning and organisational development)	<p>This is a new direct appointment for the Council as the previous post holder was a shared post with another authority.</p> <p>The duties of MO post have been benchmarked against other senior roles within the Council and the salary sits within the senior manager grading framework.</p> <p>Contact officer: Julie McCarthy julie.mccarthy@publicagroup.uk 01242 264355</p>
Key risks	<p>The risk of no or delayed appointment could risk delivery against the Council Plan and its priorities.</p>
Corporate and community plan Implications	<p>None arising from this report</p>
Environmental and climate change implications	<p>None arising from this report</p>
Property/Asset Implications	<p>None arising from this report</p>

1. Background

1.1 Under section 5 of the Local Government and Housing Act 1989 the Council is required to appoint one of its officers to act as Monitoring Officer. The Monitoring Officer is responsible for:

- Updating the Constitution. The Monitoring Officer will, as appropriate, advise Council on amendments to the Constitution normally through the Constitution Working Group which has the role of making recommendations to the Council on it. He/she may also make such amendments to the Constitution as are necessary to take account of any decisions of Full Council, a Committee, the Cabinet or the Leader and changes of law or fact, and shall notify Councillors, the Head of Paid Service and such other Officers as he/she considers appropriate of any such changes.
- Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and the Section 151 Officer, the Monitoring Officer will report to the Council (or to the Cabinet in relation to an Executive Function) if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- Supporting the Standards Committee - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Standards Committee.
- Dealing with allegations of Breach of Code of Members' Conduct. The Monitoring Officer deals with all written complaints about breaches by Borough Councillors or any Parish Councillor within the Council's administrative area, of the Code of Members' Conduct. The Monitoring Officer will seek local resolution to any complaints where this is possible or will determine complaints in accordance with the authority delegated by the Council.

1.2 Following notification from Tewkesbury Borough Council to terminate the Secondment Agreement of the previous Monitoring Officer, a review of potential options to fill the post was considered.

1.3 Members will be aware of the current organisational review. To allow for a further assessment of need and to allow for engagement with other local authorities about the potential to share an appointed MO, consideration was given to appointing an interim Monitoring Officer for a period of 6 months or until a permanent MO was appointed.

1.4 A panel comprising Appointment and Remuneration (A&R) committee members and the Chief Executive was formed to interview candidates to the interim Monitoring Officer post in order to make a recommendation to Council. The panel was unanimous in its decision that, subject to the approval of Full Council, Howard Norris be offered the interim MO role. The interim MO role will continue to be a part-time, retaining a similar time commitment and resource level in place under the previous shared arrangement with Tewkesbury Borough Council.

1.6 The Committee also formed a sub committee comprising Councillors Hay, Collins and Harman to progress with the recruitment of a permanent MO to be put forward to Full Council for approval in due course.

2. Permanent Monitoring Officer Recruitment

2.1 It is important that CBC assess needs and requirements for the future role of MO. The Council has an ambitious and broad agenda in the coming years and it is important that enough capacity and expertise resides within the position of MO in order to meet the current and future needs of the Council. Recruitment of a permanent Monitoring Officer post is one of the key considerations of a future structure.

2.2 At present, other Local Authorities in Gloucestershire are also reviewing their arrangements with

regard to an MO. Cotswold DC have recently advertised for a full time senior management position who will also fulfil the requirement of MO and others have similarly appointed interim MOs until a permanent appointment to the role can be made.

- 2.3 To ensure that the post is competitive within the market and to attract a suitable candidate, the Appointments and Remuneration Committee recommended that Council recruit an MO at up to a Director Grade Level three for a permanent appointment.
 - 2.4 While it is vital that the MO has appropriate capacity to meet CBC's needs, the current model of sharing a MO has worked well and has ensured that the Council remain safe and compliant with regard to its decision making and council business. Therefore, sharing a MO with another local authority in Gloucestershire remains a viable and efficient option going forward.
 - 2.5 If at the conclusion of this assessment it is deemed that a full time MO post is required for the authority this may present an additional cost pressure in the council that will need to be addressed. The implementation of the council's Operating Model will provide an opportunity to explore ways in which funding can be identified to fund a permanent post.
- 3. Alternative options considered**
- 3.1 The Council has a statutory duty to make these appointments from suitably qualified and experienced officers. No other options have been identified.

Report author	Contact officer: Gareth Edmundson
Appendices	N/A
Background information	None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-5	Score	Control	Action	Deadline	Responsible officer	Transfer to risk register
1	Council Monitoring officer	GE	Sept 2021	3	1	2	Appointment process established for both interim and permanent MO position.	appointment of interim MO by Full Council in Oct. 2021	October 2021	GE	No
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-5 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											