

Cheltenham Borough Council
Council
18 July 2022
Appointment of 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 (A&R) committee met at the end of September 2021 and recommended to Council to appoint an interim Monitoring Officer, this would allow for a further assessment of need, particularly in light of the council's current organisational review. The Committee also agreed that CBC should explore continuing to share a Monitoring Officer with another local authority in Gloucestershire as one of the primary options. The intention to explore a shared MO was set out to council as part of the report to appoint an interim MO in October 2021.</p> <p>An update was provided to the A&R committee in February 2022 which set out the intention to share the appointment of an MO with Stroud District Council (SDC) as it represented the best option for the Council both in meeting the Council's current and future needs and representing value for money. It was agreed to progress the appointment and that A&R committee representatives would sit on a joint final interview panel with SDC. As before, the successful candidate will be employed directly by SDC and seconded to CBC.</p> <p>A robust interview and selection process was undertaken to recruit to the vacancy. A joint final appointments panel with Stroud District Council, which included Cllr Hay and Cllr Harman as representatives from CBC's A&R Committee, met on the 11th of July to conduct final interviews of the shortlisted candidates.</p> <p>The appointment of the Council's Monitoring Officer is a matter reserved for Council. Due to the shared nature of the MO position, Full Council at CBC and SDC need to independently agree to the MO appointment. Due to the schedule of meetings, CBC's Full Council falls before SDC's which will take place later in July.</p>
Recommendations	Council is asked to resolve:

1.1. That **Claire Hughes** be appointed as Monitoring Officer for the Borough Council in accordance with section 5 of the Local Government and Housing Act 1989. That review and approval of references and satisfactory completion of necessary recruitment/HR documentation in partnership with Stroud District Council be delegated to the Chief Executive in Consultation with the Chair of the A&R Committee.

Financial implications	<p>The Monitoring Officer is a statutory post. Previously, the post of Monitoring Officer has been provided by secondment from Tewkesbury Borough Council. With the current Monitoring Officer electing to return full time to Tewkesbury Borough Council, this has resulted in a variation to the partnership agreement with One Legal.</p> <p>Provision for the remuneration of the shared Monitoring Officer with Stroud District Council has been built into the council's base budget,</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>As per the previous arrangement with Tewkesbury Borough Council, the Monitoring Officer will be employed by Stroud District Council and will be seconded to Cheltenham Borough Council.</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 The Appointments & Remuneration (A&R) committee met at the end of September 2021 and recommended to Council to appoint an interim Monitoring Officer, this would allow for a further assessment of need, particularly in light of the council's current organisational review. The Committee also agreed that CBC should explore continuing to share a Monitoring Officer with another local authority in Gloucestershire as one of the primary options. The option of sharing a permanent MO with another Local Authority was also presented to Council as a viable and efficient option as part of the report to appoint an interim Monitoring Officer in October 2021.

1.4 An update was provided to the A&R committee in February 2022 which set out the intention to share the appointment of a MO with Stroud District Council (SDC) as it represented the best option for the Council both in meeting the Council's current and future needs and representing value for money. A sub-committee of the A&R committee was agreed comprising of Councillor Hay and Councillor Harman to progress the appointment and sit on a joint final interview panel with SDC. As before, the successful candidate will be employed directly by SDC and seconded to CBC. As the Monitoring Officer is employed directly by SDC, pay and remuneration grading was set within the SDC grading framework. The role was advertised with a remuneration of up to £88k, this is comparable with CBC's Director pay and grading approved by the A&R committee and full council.

2. Permanent Monitoring Officer Recruitment Process

2.1 Following the agreement to progress a shared MO with SDC and due to the importance of the role, Campbell Tickell (CT) were appointed to conduct the search and support recruitment. Unfortunately, after advertising the role, CT were not able to present a strong enough field of applicants to progress to a final interview.

2.2 Tile Hill were subsequently appointed as an alternative recruitment provider to continue to the recruitment process. A robust interview process was undertaken in partnership with Tile Hill. This involved:

- Informal conversation with Tile Hill as part of application process to develop a long list
- Technical interview which including CBC's existing interim MO, Howard Norris as part of the panel
- Informal conversation jointly with Chief Executives of CBC and SDC
- a stakeholder panel of members with all CBC members of the A&R committee and chaired by CBC's Executive Director for Finance, Assets and Regeneration.
- The candidates were also asked to give a short presentation to the final panel which included Cllr Hay and Cllr Harman.

2.3 Following this rigorous process the interview panel have recommended that **Claire Hughes** be appointed to undertake the role of shared Corporate Director - Monitoring Officer for both CBC and SDC.

2.4 Appointment of a Monitoring Officer is a matter reserved for Full Council, however, the next Full Council Meeting following the July meeting is scheduled for September leaving a significant gap between the end of the recruitment process and potential appointment of the candidate by Full Council. If the decision to formally appoint was delayed to September this would significantly delay and risk to the appointment process.

2.5 Therefore, to allow for the appointment to progress it is proposed that review and sign off of references and any associated recruitment documentation that is outstanding is delegated to the Chief Executive in consultation with the Chair of A&R committee to work in partnership with SDC to complete the recruitment and finalise a start date of the successful candidate. Due to standard notice period it is expected that a start date of the preferred candidate will be in the Autumn. CBC's current interim MO has indicated that they will remain in their current role and fulfil the role of MO until the successful candidate is in 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 cannot appoint a permanent Monitoring officer	GE	Sept 2021	3	1	2	Council agrees appointment of preferred candidate.	appointment of MO by Full Council in July 2022	July 2022	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>											