



COUNCIL - 21ST NOVEMBER 2017

SUBJECT: APPOINTMENT OF DEPUTY MONITORING OFFICER

REPORT BY: INTERIM CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 This report asks members to agree to the designation of an acting Deputy Monitoring Officer for the authority.

2. SUMMARY

- 2.1 This report asks members to agree to the designation of an acting Deputy Monitoring Officer for the authority.
- 2.2 It is a requirement that every local authority must designate one of their officers as a "Monitoring Officer". In the absence of that officer it is their responsibility to personally nominate another member of staff to act in their place. The authority does not currently have a Deputy Monitoring Officer and due to the current absence of the council's Interim Monitoring Officer it is necessary for the authority to make alternative arrangements to ensure that this function is adequately covered.
- 2.3 The report proposes the designation of Richard Harris, Audit Manager, as Deputy Monitoring Officer in a temporary capacity, and that he deputises in the absence of the Interim Monitoring Officer until such time as the authority reviews the future structure of the legal service and is able to put in place permanent arrangements which should include provision for a deputy to act in the absence of the Monitoring Officer.. This review is expected to be completed as soon as possible.

3. LINKS TO STRATEGY

- 3.1 This matter deals with a statutory requirement regarding the allocation of functions within the authority.

4. THE REPORT

- 4.1 It is a requirement that every local authority must designate one of their officers as a "Monitoring Officer".
- 4.2 This requirement flows from the Local Government and Housing Act 1989 which states that "It shall be the duty of every relevant authority to designate one of their officers... to be known as the monitoring officer...". The Act states that it shall be the duty of the relevant authority's monitoring officer, if it at any time appears to them that any proposal, decision or omission by

the authority, or by any committee, or sub-committee of the authority, or by any person holding any office or employment within the authority has given rise to or is likely or would give rise to a contravention or any law, that they should prepare a report to the council with respect to that action or omission.

- 4.3 This is an important check and balance within every council's governance structures.
- 4.4 Where a Monitoring Officer is unable to act due to absence or illness it is their responsibility to personally nominate another member of staff to act in their place. As Members may be aware, the Council's Interim Monitoring Officer is currently not in work due to illness.
- 4.5 The authority does not currently have a Deputy Monitoring Officer and due to the current absence of the council's Interim Monitoring Officer it is necessary for the authority to make alternative arrangements to ensure that this function is adequately covered. As members will be aware, we have had interim arrangements in place for some time in this area and the current Interim Monitoring Officer was previously the Deputy Monitoring Officer. There is currently no Deputy to take their place in the event of any absence. This will require rectification by way of a review of roles and structures for the future.
- 4.6 In most cases, though not all, councils tend to appoint their Head of Legal Services or another senior legal officer as Monitoring Officer. This is the case with this authority. This, however, is not universal and there is no requirement for the Monitoring Officer to be a legal officer. In the short term there is no-one considered appropriate or able to undertake these duties within the legal service of the authority and the council's Audit Manager, Richard Harris, has been asked to take on this role as an interim and purely temporary measure. Because of the corporate and regulatory nature of audit duties this is felt to be the 'best fit' and most appropriate solution to deal with this immediate need.
- 4.7 In order to ensure that there is access to legal advice and experience, Cardiff City Council have agreed to support this arrangement for a short period by way of a Service Level Agreement whereby their Deputy Monitoring Officer, Mr David Marr will be available to provide advice to Mr Harris if required and/or directly to other officers and members if needed.
- 4.8 The report proposes the designation of Richard Harris, Audit Manager, as Deputy Monitoring Officer in a temporary capacity, and that he deputises in the absence of the Interim Monitoring Officer until such time as the authority reviews the future structure of the legal service and is able to put in place permanent arrangements for a deputy. Looking ahead, it will be important for the authority to return to having a formal mechanism for deputising for the Monitoring Officer as needed. This review is expected to be completed as soon as possible.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 This proposal relates to the statutory requirements for the administration of the authority's business and is not related to the Act.

6. EQUALITIES IMPLICATIONS

- 6.1 There are no equalities implications with this proposal.

7. FINANCIAL IMPLICATIONS

- 7.1 A service level agreement with Cardiff Council will be put in place on an hourly rate of £150 per hour. It is anticipated that the costs of this service level agreement with Cardiff Council will be limited, but will depend on the actual usage made of the arrangement.

8. PERSONNEL IMPLICATIONS

- 8.1 This is a short term and temporary measure being taken out of necessity to comply with statutory requirements and there are no ongoing personnel implications.

9. CONSULTATIONS

- 9.1 The views of the consultees are reflected in the report.

10. RECOMMENDATIONS

- 10.1 It is recommended that members agree to:
- (i) Nominate Mr Richard Harris, Audit Manager, as the council's Deputy Monitoring Officer for a temporary period, and that he shall deputise in the event of the absence at any time of the council's existing Interim Monitoring Officer
 - (ii) Agree to enter into a service level agreement with Cardiff City Council to provide support to Mr Harris, and to the authority in general as required, to support this arrangement.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 The authority is required by law to have a Monitoring Officer in place and that their function should be covered by an officer who is able to deputise for them in their absence.

12. STATUTORY POWER

- 12.1 The role of the Monitoring Officer is stipulated in the Local Government and Housing Act 1989.

Author: Chris Burns, interim Chief Executive
Consultees: Dave Street, Corporate Director, Social Services
Christina Harrhy, Corporate Director, Environment
Cllr David Poole, Leader
Cllr Sean Morgan, Deputy Leader
Cllr Barbara Jones, Deputy Leader
Stephen Harris, Interim Head of Corporate Finance
Lynne Donovan, Acting Head of Human Resources & Organisational Development

Background Papers:
Local Government and Housing Act 1989