

Council

24 February 2022



Title	Appointment of Monitoring Officer
Purpose of the report	To make a decision
Report Author	Daniel Mouawad Chief Executive
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a council decision.
Recommendations	Committee is asked to: <ul style="list-style-type: none">(a) To delegate authority to the Chief Executive to make an interim appointment as Group Head of Corporate Governance(b) To designate Jayne La Grua as Monitoring Officer (on an interim basis) from 21 March 2022(c) To constitute the Appointments Committee as set out in this report(d) To delegate authority to the Appointments Committee to designate the next Group Head of Corporate Governance as Monitoring Officer
Reason for Recommendation	To comply with the Local Government and Housing Act 1989. The current Monitoring officer, Victoria Statham will leave the Council on 18 March 2022. It is the legal duty of the Council to have a Monitoring Officer and to designate one of its officers as such. Arrangements therefore need to be in place for (a) the interim period until the next permanent appointment and (b) the permanent appointment.

1. Summary of the report

- 1.1 This report seeks to ensure that an interim Monitoring Officer is designated in accordance with the Local Government and Housing Act 1989 and that there is a clear and efficient process for the recruitment to the permanent role.

2. Key issues

- 2.1 Under Section 5 of the Local Government & Housing Act 1989, the Council has a duty to appoint a Monitoring Officer. Neither the Head of Paid Service

nor the Chief Finance Officer can hold the position of Monitoring Officer. There is no statutory requirement for the position to be held by a legally qualified officer but given the nature of the duties it is expected that the role should be undertaken by a qualified lawyer as it is in most other councils.

- 2.2 The Monitoring Officer has a number of statutory duties and responsibilities relating to the Council's Constitution and our arrangements for effective governance. These duties include maintaining the Constitution, ensuring that no decision or omission of the Council is likely to give rise to illegality or maladministration and promoting high standards of conduct.
- 2.3 Article 10.1 (c) of the Constitution provides that it is the responsibility of the Council to designate the Monitoring Officer.
- 2.4 Article 10.7 of the Constitution states that the recruitment, selection and dismissal of Chief Officers (which includes the Monitoring Officer) will comply with the Officer Employment Procedure Rules set out in Part 4 of the Constitution.
- 2.5 Part 4 of the Constitution – the Officer Employment Procedure Rules states that the appointment of a Chief Officer should be made by a Committee or sub-committee of the Council. That is, the decision to make the appointment to the substantive position of Group Head of Corporate Governance is a Committee responsibility but the decision to designate that person as Monitoring Officer is one for Council; both elements are required.

3. Interim Appointment

- 3.1 Given that there is likely to be a period (possibly up to six months) between Victoria Statham leaving the Council and a new appointment taking up the post, if it is to be an external applicant, then it is practicable to make arrangements for cover in the interim. It is not practicable to undertake a full recruitment exercise for an interim, and we have corporately sought candidates through networks, the LGA, approached relevant legal firms and having exhausted such routes approached a number of recruitment agencies for a suitable locum provision. Interviews have been undertaken with five possible candidates.
- 3.2 The Council can secure the services of Jayne La Grua for an interim appointment, through an agency. Jayne is a barrister, who has specialised in criminal prosecutions, but has latterly focused her career on local government. Having suitable experience at two local authorities, Jayne has demonstrated that she has the knowledge and expertise to provide the Council with a capable Group Head of Corporate Governance and Monitoring Officer for this interim period.
- 3.3 The Chief Executive, as Head of Paid Services, proposes to make this appointment to ensure there is sufficient capacity in the Council to deal with issues which may arise before the permanent appointment is made. This avoids undue pressure in the corporate governance teams by asking staff to act up in the interim.
- 3.4 If Council is content with this interim appointment, then approval is sought to designate this officer as the Monitoring Officer.

4. Permanent Appointment

- 4.1 Arrangements are in hand to finalise a timetable for an Appointments Committee to meet and consider the appointment of the next Group Head of Corporate Governance. Whilst the Committee will be able to approve the appointment, it does not have the authority to designate that officer as Monitoring Officer which would ordinarily mean that the appointment would also be referred to Council.
- 4.2 Failure to confirm the designation as Monitoring Officer promptly builds in extra delay to the time when the candidate takes up appointment. In order to counter this, it is now proposed that Council delegates its function of designation to the Appointments Committee. The Appointments Committee will therefore make the decision to designate at the same time as it makes the conditional offer of employment. When all conditions precedent are resolved (satisfactory medical, references etc) the Council's offer will be unconditional to be appointed as Group Head of Corporate Governance and Monitoring Officer.

5. Appointments Committee

- 5.1 It is recommended that the Appointments Committee should consist of 5 Councillors and must be politically proportionate. On the proportionality calculations the distribution should be:
- (a) 2 Conservative
 - (b) 1 Liberal Democrat/Green Group
 - (c) 2 from United Spelthorne Group/Labour/Independent Labour/Independent Spelthorne/Green
- 5.2 The Group Leaders have considered the allocation and would allocate the following Councillors to sit on that committee:
- (a) Cllr Sider – Conservative
 - (b) Cllr Boughtflower - Conservative
 - (c) Cllr S Dunn – Liberal Democrat
 - (d) Cllr S Doran - Labour
 - (e) Cllr J Vinson – Independent Labour
- 5.3 Due to the timing of the recruitment, the Appointments Panel may be required to sit during this and the next municipal year and therefore the appointment to this committee will be until the ACM 2023 to ensure continuity of membership.

6. Options analysis and proposal

- 6.1 The alternative option is for Council to retain the power of designation. This is not recommended because it will cause delay and uncertainty for candidates which may prejudice the ability of the Council to secure the best candidate (in what we are advised is a niche and "difficult to recruit to" market).

7. Financial implications

- 7.1 Having not been able to recruit an interim through other routes and having to go through an agency for a locum provision there is a financial implication. Across the legal sector locums are attracting high rates.

7.2 Considering the current salary budget provision there will be an additional cost of £37,000 for the six months.

8. Contact

8.1 Victoria Statham, Group Head of Corporate Governance
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Background papers: There are none.

Appendices: There are none.