

Council

10 June 2024



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	N/A
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a Council decision.
Recommendations	Council is asked to agree: (a) To designate Karen Limmer as Monitoring Officer (on an interim basis) from 1 July 2024. (b) To delegate authority to the Chief Executive to make an interim appointment as Group Head of Corporate Governance. (c) To delegate authority to the Appointments & Appeals 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, Farida Hussain will leave the Council on 30 June 2024. 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 the interim period until the next permanent appointment.

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none">The current Monitoring Officer, Farida Hussain will leave the Council on 30 June 2024.	<ul style="list-style-type: none">It is the legal duty of the Council to have a Monitoring Officer and to designate one of its officers as such.
This is what we want to do about it	These are the next steps

<ul style="list-style-type: none"> • Appoint a Monitoring Officer for an interim period until a permanent appointment is made. 	<ul style="list-style-type: none"> • Designate an officer as Monitoring Officer for an interim period. • Delegate authority to the Chief Executive to make an interim appointment as Group Head of Corporate Governance. • Appointments Committee to agree a permanent appointment to Group Head of Corporate Governance and be delegated to designate that person as Monitoring Officer.
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1.1 This report seeks to appoint an Interim Monitoring Officer following the departure of the current Monitoring Officer, Farida Hussain on 30 June 2024.

2. Key issues

2.1 Under Section 5 of the Local Government and 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.

2.2 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.

2.3 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.

2.4 Article 10.1 of the Constitution provides that it is the responsibility of the Council to designate the Monitoring Officer.

2.5 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.

2.6 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 Farida Hussain 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 officers have therefore identified a suitable candidate who is qualified and willing to assist us in the short term.

- 3.2 The Council has the ability to secure the services of Karen Limmer as an interim appointment. Mrs Limmer has extensive experience as a Monitoring Officer, including an interim appointment at this authority in 2019, and has been working on a part-time basis assisting Spelthorne's Legal Dept. on diverse projects, since 2020. Her previous experience includes:

3.3 Over 30 years as a solicitor.

- Thirteen years as Solicitor to the Council and Monitoring Officer at Rushmoor Borough Council.
- Six years as Head of Legal Services and Monitoring Officer at Surrey Heath Borough Council.

- 3.4 The Chief Executive proposes to make this interim 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 Legal Dept. by asking staff to act up in the interim.

- 3.5 If Council is content with this interim appointment, then approval is sought to designate Mrs Limmer 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 The initial timetable for the appointment indicates that whilst it may be theoretically possible for this appointment to reach the 18 July 2024 Council meeting, there is a real risk that slippage in the timetable will mean that the officer may not be designated until the following Council meeting on 24 October 2024. It is highly desirable for the Council meeting to follow quickly after the Appointments Committee so that the Council can indicate to the successful candidate that he or she has cleared all administrative hurdles and the offer has become "unconditional" which then allows the candidate to give notice.

- 4.3 Failure to confirm the designation as Monitoring Officer promptly therefore 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. Options analysis and proposal

5.1 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).

6. Financial management comments

6.1 No substantial implications.

7. Risk management comments

7.1 The appointment of an interim Monitoring Officer will mitigate the risk to the Council of not having a Monitoring Officer in place to deal with any issues which may arise before a permanent appointment is made.

8. Procurement comments

8.1 None.

9. Legal comments

9.1 As set out in the report at paragraphs 2.1, 2.4, 2.5 and 2.6

10. Other considerations

10.1 None.

11. Equality and Diversity

11.1 No implications.

12. Sustainability/Climate Change Implications

12.1 No implications.

13. Timetable for implementation

13.1 The appointment of an interim Monitoring Officer will take effect from 1 July 2024.

14. Contact

14.1 Faria Hussain, f.hussain@spelthorne.gov.uk .

Background papers: There are none.

Appendices: There are none.