

Appointment of Monitoring Officer

For Full Council on 06 October 2021

Summary

Lead Member: Tom Dawlings, Leader of the Council

Lead Director: Stephen McGinnes, Mid Kent Services Director

Head of Service: Patricia Narebor, Head of Legal Partnership

Report Author: Patricia Narebor, Head of Legal Partnership

Classification: Public document (non-exempt)

Wards Affected: All

Approval Timetable	Date
Management Board	11 August 2021
Portfolio Holder	14 September 2021
Council	6 October 2021

Recommendations

Officer recommendations as supported by the Portfolio Holder:

1. That the Council appoint Claudette Valmond as the Interim Head of Legal Partnership and Monitoring Officer for the Council, with effect from 24 October 2021.
2. That the Council authorise the Interim Head of Legal Partnership to exercise the Head of Legal Partnership's delegated functions and responsibilities in the Council's Constitution, with effect from 24 October 2021

1. Introduction and Background

- 1.1 The Council shares its legal service with Swale and Maidstone Borough Council (Mid Kent Legal Services). Patricia Narebor is the current Head of Legal Partnership and is also appointed as the Monitoring Officer for the Council.
- 1.2 Patricia Narebor is leaving her post on 24 October 2021 to take up another position. Claudette Valmond has been appointed as a deputy Monitoring Officer from week commencing 6 September 2021 pending Council approval of the appointment. As deputy Monitoring Officer, she will discharge the duties in the absence of Patricia Narebor on annual leave.
- 1.3 The Council is required by law to appoint a Monitoring Officer and under the Council's Constitution, the decision must be taken by Full Council.
- 1.4 The Monitoring Officer has several statutory duties and responsibilities relating to the Council's Constitution and the 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. A full list of the Monitoring Officer's responsibilities and delegated powers is included within Part 3, Annex C, Table 2, Paragraphs 53-63 of the Council's Constitution.
- 1.5 The Local Government and Housing Act 1989, section 5 requires an Authority to designate one of their Officers to perform the Monitoring Officer duties which includes:
 - (a) the duty to consider proposals and prepare a report for consideration by the Authority if a proposal is likely to give rise to a contravention of any enactment, rule of law or any code of practice; or
 - (b) likely to lead to any maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners).
- 1.6 The Head of Service discharges Proper Officer functions as delegated by the Authority and outlined within the Authority's Constitution, to include the Scheme of Delegation.
- 1.7 Claudette Valmond, Principal Lawyer, has accepted a conditional offer to become Interim Head of Legal Partnership for the three local authorities until a permanent replacement for the Head of Legal Partnership post is recruited.
- 1.8 It is proposed that Claudette Valmond is appointed as the Council's Monitoring

Officer with effect from 24 October 2021 and that she is seconded to the Council from Swale Borough Council (her employing authority) whilst carrying out the Monitoring Officer duties. Claudette Valmond has been a qualified solicitor for over 30 years and has over 7 years' experience working in local government legal services.

- 1.9 If the recommendation is accepted, Claudette Valmond will appoint a Deputy Monitoring Officer to assist with her responsibilities.
- 1.10 As the Interim Head of Legal Partnership, it is also recommended that, with effect from 24 October 2021, Claudette Valmond exercises the Head of Legal Partnership's delegated functions and responsibilities in the Council's Constitution.

2. Options Considered

- 2.1 The Council could decide to appoint another council officer as its Monitoring Officer but without a similar level of legal and governance expertise.

3. Preferred Option and Reason

- 3.1 The preferred option is to appoint Claudette Valmond, Principal Lawyer, as Monitoring Officer and Interim Head of Legal Services for the reasons set out within the report.

4. Consultation on Options

- 4.1 Given that this report concerns the appointment of one of the Council's statutory officers, the recommendation is being made directly to Full Council.
- 4.2 The proposed interim structure and appointments have been discussed and are supported by the Chief Executive and partner authorities.

5. Implementation

- 5.1 If the recommendation is approved, the decision will be communicated to staff and relevant stakeholders.

6. Appendices and Background Documents

None.

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The Council is required to appoint a Monitoring Officer by section 5 of the Local Government & Housing Act 1989. Section 113 of the Local Government Act 1972 allows one local authority to agree with another that it will place an officer at the disposal of the latter for the purposes of their functions.

Patricia Narebor, Head of Mid Kent Legal Partnership

B. Finance and Other Resources

The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.

Lee Colyer, Director of Finance, Policy and Development

C. Staffing

The changes set out within the body of the report have been discussed and are supported by those staff affected.

Stephen McGinnes, Mid Kent Services Director

D. Risk Management

If the recommendation is accepted, the risks are low given the extensive legal and governance experience. The risks of appointing a Monitoring Officer without these skills and experience would be much higher.

Stephen McGinnes, Mid Kent Services Director

E. Environment and Sustainability

The recommendations in themselves have no impact on environment and sustainability.

Stephen McGinnes, Mid Kent Services Director

F. Community Safety

The recommendations in themselves have no impact on community safety.

Stephen McGinnes, Mid Kent Services Director

G. Equalities

The recommendations in themselves have no impact on equalities.

Stephen McGinnes, Mid Kent Services Director

H. Data Protection

The recommendations in themselves have no impact on data protection.

Stephen McGinnes, Mid Kent Services Director

I. Health and Safety

The recommendations in themselves have no impact on health and safety.

Stephen McGinnes, Mid Kent Services Director

J. Health and Wellbeing

The recommendations in themselves have no impact on health and wellbeing.

Stephen McGinnes, Mid Kent Services