

# Appointment of Monitoring Officer

For Full Council 14 December 2022

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## Summary

**Lead Member:** Councillor David Hayward – Cabinet Member for Governance and Transparency

**Lead Director:** Georgia Hawkes, Mid Kent Services Director

**Head of Service:** Claudette Valmond, Head of Legal Partnership

**Report Author:** Claudette Valmond, Monitoring Officer

**Classification:** non-exempt

**Wards Affected:** All

Approval Timetable	Date
Full Council	14 December 2022

## Recommendations

Officer / Committee recommendations as supported by the Portfolio Holder:

1. That Claudette Valmond be appointed as the Monitoring Officer for the Council with effect from 15 December 2022.
2. That Claudette Valmond was appointed as the Head of Legal Partnership in October 2022 be noted.
3. That the Head of Legal Partnership be authorised to exercise the delegated function and responsibilities of the Head of Legal Partnership as specified in the Council Constitution.

# 1. Introduction and Background

- 1.1 Claudette Valmond was appointed as the Council's interim Monitoring Officer by Full Council on 6 October 2021 and has acted in that capacity for the past 13 months.
- 1.2 Although Claudette Valmond was appointed the Head of Legal Partnership in October 2022 she remains the Council's interim Monitoring Officer as the decision to appoint a Monitoring Officer must be taken by Full Council.
- 1.3 This report therefore recommends that the Council notes Claudette Valmond's appointment as the Head of Legal Partnership and appoints her as the Council's Monitoring Officer with effect from 15 December 2022.
- 1.4 The Council shares its legal service (Mid Kent Legal Services) with Swale and Maidstone Borough Councils which is headed by Claudette Valmond.
- 1.5 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.
- 1.6 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 (pages 39-40) of the Council's Constitution.
- 1.7 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).
- 1.8 It is proposed that Claudette Valmond is appointed as the Council's Monitoring Officer with effect from 15 December and that she is seconded to the Council from Swale Borough Council (her employing authority) whilst carrying out the Monitoring Officer duties.

- 1.9 If the recommendation is accepted, Claudette Valmond will appoint one or more Deputy Monitoring Officer(s) to assist with her the responsibilities as Monitoring Officer for the Council.
  - 2.0 As the Head of Legal Partnership, it is also recommended that Claudette Valmond exercise the Head of Legal Partnership's delegated functions and responsibilities in the Council's Constitution.
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## **2. Available Options**

- 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 Reasons for Recommendations**

- 3.1 The recommendation is to appoint Claudette Valmond, Head of Legal Partnership, as Monitoring Officer for the reasons set out above.

## **4. Consultation Results and Previous Committee Feedback**

- 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. The Leader of the Council and the Chairman of the Audit and Governance Committee have both been consulted about the report.
- 4.2 The proposed appointment has been discussed and is supported by the Chief Executive.

## **5. Next Steps: Communication and Implementation of the design.**

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

## 6. Appendices and Background Documents

Appendices:

- 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.

if any are the legal implications? Seek legal advice when completing. The relevant legal officer must sign off the report before it is submitted to Democratic Services.]

[Name, title and date of legal officer who signed off the report]

### 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.

Georgia Hawkes, Mid Kent Services Director

### C. Staffing

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

Georgia Hawkes, 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.

Georgia Hawkes, Mid Kent Services Director

## **E. Environment and Sustainability**

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

Georgia Hawkes, Mid Kent Services Director

## **F. Community Safety**

The recommendations in themselves have no impact on community safety.

Georgia Hawkes, Mid Kent Services Director

## **G. Equalities**

The recommendations in themselves have no impact on equalities

Georgia Hawkes, Mid Kent Services Director

## **H. Data Protection**

The recommendations in themselves have no impact on data protection.

Georgia Hawkes, Mid Kent Services Director

## **I. Health and Safety**

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

Georgia Hawkes, Mid Kent Services Director

## **J. Health and Wellbeing**

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

Georgia Hawkes, Mid Kent Services Director