

## Appointment of Monitoring Officer

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Claudette Valmond, Head of Legal Partnership
<b>Lead Officer and Report Author</b>	Claudette Valmond, Head of Legal Partnership
<b>Classification</b>	Public
<b>Wards affected</b>	All

### Executive Summary

Russell Fitzpatrick, the Council's Monitoring Officer will step down on 18 May 2024. The Council is required by law to have a Monitoring Officer in post. It is proposed that Robin Harris be appointed as the Council's Monitoring Officer from 18 May 2024.

### Purpose of Report

Decision

### This report makes the following recommendation to the Council:

1. That Robin Harris be appointed to undertake statutory duties and responsibilities as the Council's Monitoring Officer, as noted in the Constitution at Part B5 paragraph 19, with effect from 18 May 2024.

### Timetable

<b>Meeting</b>	<b>Date</b>
Annual Council	18 May 2024

# Appointment of Monitoring Officer

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	Good governance is essential in delivering the Council's priorities. The appointment of a Monitoring Officer is a legal requirement which supports the Council in delivering its priorities.	Head of Legal Partnership
<b>Cross Cutting Objectives</b>	No implications.	Head of Legal Partnership
<b>Risk Management</b>	There would be a risk in not appointing a Monitoring Officer, as this is a legal requirement. Other risk factors are covered in the body of the report.	Head of Legal Partnership
<b>Financial</b>	No implications.	Head of Legal Partnership
<b>Staffing</b>	No implications.	Head of Legal Partnership
<b>Legal</b>	The Local Government and Housing Act 1989, Section 5 requires an Authority to appoint a Monitoring Officer.	Head of Legal Partnership
<b>Privacy and Data Protection</b>	No implications.	Head of Legal Partnership
<b>Equalities</b>	No implications.	Equalities & Communities Officer
<b>Public Health</b>	No implications.	Head of Legal Partnership
<b>Crime and Disorder</b>	No implications.	Head of Legal Partnership
<b>Procurement</b>	No implications.	Head

		of Legal Partnership
<b>Biodiversity and Climate Change</b>	No implications.	Biodiversity and Climate Change Manager

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Council shares its legal service with Swale and Tunbridge Wells Borough Councils (Mid Kent Legal Services). Claudette Valmond is the current Head of Legal Partnership and Monitoring Officer for Tunbridge Wells Borough Council the Deputy Head of Legal Partnership and Monitoring Officer for Swale Borough Council is Robin Harris.
- 2.2 Maidstone's Monitoring Officer function is undertaken by Russell Fitzpatrick, who is the Team Leader (Planning) within Mid Kent Legal Services. Russell Fitzpatrick will stand down from this post on 18 May 2024.
- 2.3 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.
- 2.4 The Monitoring Officer has a number of 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 the Council's Constitution.
- 2.5 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 the duty to consider proposals and prepare a report for consideration by the Authority if a proposal is likely to:
- (a) give rise to a contravention of any enactment, rule of law or any code of practice; or
  - (b) lead to any maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners).
- 2.6 It is proposed that Robin Harris is appointed as the Council's Monitoring Officer with effect from 18 May 2024 and that he is seconded to the Council from Swale Borough Council (his employing authority) whilst carrying out the Monitoring Officer duties. By virtue of Section 113 (2) of the Local Government Act 1972, Mr Harris is treated as an Officer of Maidstone Borough Council when discharging the Monitoring Officer functions.
- 2.7 Robin Harris was called to the Bar in 2006 and converted to being a Fellow of the Chartered Institute of Legal Executives (CILEX) in 2019. He is to be appointed as a CILEX Litigator and Advocate (Civil) from 1<sup>st</sup> June 2024.
- 2.8 He has over 14 years' experience working in local government legal services and over 9 years' experience as a Deputy Monitoring Officer across Tunbridge Wells, Swale and Maidstone Borough Councils. He previously undertook the

role of Maidstone Borough Council's Monitoring Officer from September 2022 to April 2023 and has been Swale Borough Council's Monitoring Officer since April 2023.

- 2.9 If the recommendation is accepted, Robin Harris will appoint Deputy Monitoring Officers to assist him.
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### **3. AVAILABLE OPTIONS**

- 3.1 The Council is required by law to appoint a Monitoring Officer. It could decide to appoint a different officer to undertake the role however as the current Deputy Monitoring Officer for Maidstone and Monitoring Officer for Swale, Robin Harris is considered to be the best qualified officer to undertake the role.
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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The recommendation is to appoint Robin Harris as the Monitoring Officer for the reasons set out above.
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### **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the policy.
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### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 Given that this report concerns the appointment of one of the Council's statutory officers, the recommendation is being made directly to Full Council.
- 6.2 The proposed appointment has been discussed and is supported by the Chief Executive and partner authorities.
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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 If the recommendation is approved, the decision will be communicated to staff and relevant stakeholders.
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## **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

None.

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## **9. BACKGROUND PAPERS**

None.