

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Appointment of Monitoring Officer

Final Decision-Maker	Council
Lead Director or Head of Service	Interim Director of Mid Kent Services
Lead Officer and Report Author	John Scarborough, Head of Legal Partnership
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. To appoint Estelle Culligan as the Interim Head of Legal Partnership and Monitoring Officer for the Council, with effect from 3 October 2016.
2. To 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 3 October 2016.

This report relates to the following corporate priorities:

The Council is responsible for putting in place proper arrangements for the governance of its affairs. The appointment of an experienced Monitoring Officer is a key component of these arrangements and will support the Council to achieve its corporate objectives

Timetable

Meeting	Date
Council	21 September 2016

Appointment of Monitoring Officer

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 John Scarborough, the Council's Head of Legal Partnership and Monitoring Officer, is leaving the Council on 2 October 2016 to take up another position.
 - 1.2 The Council is required by law to appoint a Monitoring Officer. Therefore this report recommends that the Council appoints Estelle Culligan, Deputy Head of Legal Partnership, as the Council's Interim Head of Legal Partnership and Monitoring Officer with effect from 3 October 2016. It is proposed that this appointment remains in place whilst a permanent replacement for the Head of Legal Partnership is recruited.
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2 INTRODUCTION AND BACKGROUND

- 2.1 The Council shares its legal service with Swale and Tunbridge Wells Borough Councils (Mid Kent Legal Services). John Scarborough is the current Head of Legal Partnership. Mr Scarborough is also appointed as the Monitoring Officer for Maidstone Borough Council.
- 2.2 Mr Scarborough is leaving his post on 2 October 2016 to take up another position.
- 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. The Council's Head of Paid Service and the Chief Finance Officer cannot also hold the position of Monitoring Officer.
- 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 (Part 2.1 paragraph 3.13 and paragraph 4 "The Proper Officer Functions").
- 2.5 Estelle Culligan, Deputy Head of Legal Partnership, has accepted an offer to become Interim Head of Legal Partnership for the three local authorities whilst a permanent replacement for the Head of Legal Partnership post is recruited.
- 2.6 It is proposed that Ms Culligan is appointed as the Council's Monitoring Officer with effect from 3 October 2016 and that she is seconded to the Council from Swale Borough Council (her employing authority) whilst carrying out the Monitoring Officer duties. Ms Culligan has been a qualified solicitor for 15 years and has 12 years' experience working in local government legal services. She

was also Monitoring Officer in her previous employment and is experienced in carrying out the Monitoring Officer role.

- 2.7 If the recommendation is accepted, Ms Culligan will appoint a Deputy Monitoring Officer to assist with her responsibilities for Maidstone Borough Council.
- 2.8 As the Interim Head of Legal Partnership, it is also recommended that, with effect from 3 October 2016, Ms Culligan exercises the Head of Legal Partnership's delegated functions and responsibilities in the Council's Constitution.
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3 AVAILABLE OPTIONS

- 3.1 The Council could decide to appoint another council officer as its Monitoring Officer but without a similar level of legal and governance expertise.
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4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The recommendation is to appoint Estelle Culligan, Deputy Head of Legal Partnership, as Monitoring Officer for the reasons set out above.
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5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 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, Governance and Standards Committee have both been consulted about the report.
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6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If the recommendation is approved, the decision will be communicated to staff and relevant stakeholders.
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7 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Council is responsible for putting in place proper arrangements for the governance of its affairs. The appointment of an experienced Monitoring Officer is a key component of these arrangements and will support the Council	Steve McGinnes, Interim Director MKS

	to achieve its corporate objectives	
Risk Management	If the recommendation is accepted, the risks are considered to be low given the Deputy Head of Legal Partnership's extensive legal and governance experience. The risks of appointing a Monitoring Officer without these skills and experience would be much higher.	John Scarborough, Head of Legal Partnership 12/8/16
Financial	If the recommendation is accepted, it will enable the Council to make use of existing Mid Kent Improvement Partnership resources, namely the legal and governance experience of the Deputy Head of Legal Partnership. Arrangements are being discussed to backfill the Deputy Head of Legal Partnership's responsibilities within the existing approved Mid Kent Legal Services budget.	Section 151 Officer & Finance Team
Staffing	If the recommendation is accepted, the Head of Legal Partnership will be seconded to the Council from Swale Borough Council whilst carrying out her Monitoring Officer duties.	John Scarborough, Head of Legal Partnership 12/8/16
Legal	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.	John Scarborough, Head of Legal Partnership 12/8/16

8 REPORT APPENDICES

None

9 BACKGROUND PAPERS

None