

**Appointment of Monitoring Officer**

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|---------------------------------------|--|
| <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> | Jayne Bolas, Interim Deputy Head of Legal Partnership and Monitoring Officer |
| <b>Classification</b>                 | Public   |
| <b>Wards affected</b>                 | All  |

**Executive Summary**

Jayne Bolas, the Council's Interim Deputy Head of Legal Partnership and Monitoring Officer will leave the Council on 27, September 2022.

To maintain an effective legal service until such time that a permanent appointment is made, the report notes the appointment of Claudette Valmond as the Interim Head of Legal Partnership remains in place and recommends the appointment of Robin Harris, the current Deputy Monitoring Officer as the Monitoring Officer for Maidstone Borough Council.

It is proposed that this appointment is reviewed on the recruitment of a permanent Head of Legal Partnership or such later date as shall be appropriate.

**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 18, with effect from 28, September 2022.

**Timetable**

| <b>Meeting</b> | <b>Date</b>       |
|----------------|-------------------|
| Council        | 28 September 2022 |

# 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. | Interim Deputy Head of Legal Partnership |
| <b>Cross Cutting Objectives</b>       | No implications.   | Interim Deputy 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.                                      | Interim Deputy Head of Legal Partnership |
| <b>Financial</b>                      | No implications.   | Interim Deputy Head of Legal Partnership |
| <b>Staffing</b>                       | No implications.   | Interim Deputy Head of Legal Partnership |
| <b>Legal</b>                          | The Local Government and Housing Act 1989, section 5 requires an Authority to designate one of their Officers to perform the Monitoring Officer duties.                                      | Interim Deputy Head of Legal Partnership |
| <b>Privacy and Data Protection</b>    | No implications.   | Interim Deputy Head of Legal Partnership |
| <b>Equalities</b>                     | No implications.   | Equalities & Communities Officer         |
| <b>Public Health</b>                  | No implications.   | Interim Deputy Head of Legal Partnership |
| <b>Crime and Disorder</b>             | No implications.   | Interim Deputy Head of Legal Partnership |
| <b>Procurement</b>                    | No implications.   | Interim Deputy 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 Interim Head of Legal Partnership and the Interim Deputy Head and Monitoring Officer for Maidstone Borough Council is Jayne Bolas.
- 2.2 Mrs Bolas will retire from her post on 27 September 2022.
- 2.3 To maintain an effective legal service until such time that a permanent appointment is made to the Head of Legal Partnership and Monitoring Officer roles, a replacement Monitoring Officer is proposed for Maidstone Borough Council.
- 2.4 It is proposed that this appointment is reviewed on the recruitment of a permanent Head of Legal Partnership or such later date as shall be appropriate.
- 2.5 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.
- 2.6 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.
- 2.7 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).
- 2.8 Robin Harris (Interim Team Leader – Contentious and Corporate Governance) and Deputy Monitoring Officer has accepted a conditional offer to become the Monitoring Officer as part of an interim structure until a permanent

replacement for the Head of Legal Partnership post is recruited or such later date as shall be appropriate.

- 2.9 It is proposed that Robin Harris is appointed as the Council's Monitoring Officer with effect from 28, September 2022 and that he is seconded to the Council from Swale Borough Council (their employing authority) whilst carrying out the Monitoring Officer duties.
- 2.10 Robin Harris was called to the Bar in 2006 and converted to being a Fellow of the Chartered Institute of Legal Executives in 2019. He has over 12 years' experience working in local government legal services and over 7 years' experience as a Deputy Monitoring Officer across Tunbridge Wells, Swale and Maidstone Borough Councils.
- 2.11 If the recommendation is accepted, Robin Harris will appoint a Deputy Monitoring Officer 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, Robin Harris is held 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:

- Appendix 1: Monitoring Officer Responsibilities (Constitution at Part B5 paragraphs 18).
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## **9. BACKGROUND PAPERS**

None.