

STROUD DISTRICT COUNCIL

COUNCIL

THURSDAY, 25 APRIL 2024

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| Report Title | Appointment of a Monitoring Officer | | | |
| Purpose of Report | To appoint a Monitoring Officer | | | |
| Decision(s) | The Council RESOLVES that: a) Hayley Sims be designated Monitoring Officer for the Council in accordance with section 5 of the Local Government and Housing Act 1989 with effect from 1 May 2024 for an initial period of one year b) The Chief Executive be authorised to enter into a secondment agreement with One Legal (via Tewkesbury Borough Council) to second the above-mentioned One Legal officer to Stroud District Council | | | |
| Consultation and Feedback | All Group Leaders | | | |
| Report Author | Kathy O'Leary, Chief Executive Email: kathy.oleary@stroud.gov.uk | | | |
| Options | The Council must have a Monitoring Officer so if this appointment is not made an alternative must be appointed. | | | |
| Background Papers | None | | | |
| Appendices | None | | | |
| Implications (further details at the end of the report) | Financial | Legal | Equality | Environmental |
| | Yes | Yes | No | No |

1. Introduction / Background

- 1.1 Under Section 5 of the Local Government and Housing Act 1989 (as amended) the Council has a duty to designate an officer as Monitoring Officer. The Act specifically excludes the Head of Paid Service and the Chief Finance Officer (Section 151 Officer) from being the Monitoring Officer.
- 1.2 The Monitoring Officer has a number of statutory duties and responsibilities which include ensuring that the Council acts lawfully and to avoid any maladministration. This encompasses advising on the lawfulness of decision making, applying and maintaining the Council's Constitution and arrangements for effective governance.
- 1.3 The Monitoring Officer also has responsibilities arising from the Localism Act 2011 relating to Councillor conduct (Council and Parish Councils). These responsibilities include dealing with complaints relating to the Code of Conduct and providing training for Members thereon.
- 1.4 Claire Hughes has been the designated Monitoring Officer since 24th October 2022.

1.5 This is currently a shared role of Corporate Director and Monitoring Officer between Stroud District Council and Cheltenham Borough Council, which generated a financial saving included in the Medium Term Financial Plan. The role is directly employed by Stroud DC and seconded back to Cheltenham BC for half of the working week. At Stroud DC the role carries Strategic Director level pay and responsibilities and also serves as the Council's Data Protection Officer, and at Cheltenham BC it sits at Corporate Director level. Half of the cost of the post is recharged to Cheltenham Borough Council, confirmed in a secondment agreement. The role sits in the Strategic Leadership Team of both Councils.

2. New Monitoring Officer Arrangements

2.1 Following a restructure of the Strategic Leadership Team at Cheltenham Borough Council, approved by their Cabinet in February 2024, Claire Hughes will be taking up a permanent appointment as full-time Director of Governance and Customer Services (Monitoring Officer) at Cheltenham Borough Council with effect from 1 May 2024. This means that Stroud District Council must make alternative arrangements to appoint a Monitoring Officer.

2.2 Members will recall that previously Stroud District Council has shared the Monitoring Officer role with Gloucester City Council and Cotswold District Council prior to the current shared arrangements with Cheltenham Borough Council. The council will continue to explore opportunities to share should they arise. At present no other districts are looking for new shared Monitoring Officer arrangements that would be a good match with our needs, so that is not an option currently open to the council.

2.3 Members may also recall that when Stroud District Council transferred its legal team in 2020 into the One Legal partnership, based at Tewkesbury Borough Council, there was an ambition for the One Legal partnership to provide its members with Monitoring Officer services where there was a desire and need to do so. At that time One Legal could not fulfil that ambition for Stroud District Council in addition to the other districts for which it made provision. It is now in a position to be able to do so, in addition to the (shared) Monitoring Officer provision the partnership makes for Tewkesbury BC and Gloucester City.

2.4 Members will be aware that when the Monitoring Officer is unable to attend a meeting for whatever reason, they appoint a Deputy Monitoring Officer in their place. Hayley Sims of One Legal has deputised for Claire Hughes at Stroud District Council meetings on several occasions and has expressed an interest in stepping up into the role of Monitoring Officer for the council.

2.5 When the new Monitoring Officer is unable to attend a meeting they will also appoint a deputy to attend in their place, either from the One Legal partnership or from within the council.

3. Conclusion

3.1 It is proposed to contract Monitoring Officer services through the One Legal partnership from 1 May 2024 and to appoint Hayley Sims of One Legal as Stroud District Council's Monitoring Officer.

3.2 The role will continue to be for half of the working week, and it will remain part of the Council's Strategic Leadership Team. This will generate a further cost saving to the council as it will be contracting with One Legal rather than directly remunerating the role at Strategic Director level. The Data Protection Officer responsibilities will become part of the role of another officer of the council for which the postholder will be remunerated.

3.3 It is proposed to appoint to the Monitoring Officer role for an initial period of one year after which the new arrangements will be reviewed. A further report will be made to Council in April next year.

4. Implications

4.1 Financial Implications

The move to a Monitoring Officer provided through One Legal and an in house DPO will have an additional cost of approximately £2k p.a. This can be found from existing staffing budgets or, if approved, the resource requested in the Organisational Changes report going to this Council meeting.

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4.2 Legal Implications

The council is required to appoint a statutory Monitoring Officer by Section 5 of the Local Government and Housing Act 1989 (as amended).

Article 11 of Stroud District Council's constitution requires this to be a decision of Council and sets out fully the functions of the Monitoring Officer.

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4.3 Equality Implications

An EIA is not required because there are not any specific changes to service delivery proposed within this decision.

4.4 Environmental Implications

There are no environmental implications arising from this decision.