

Council	
Meeting Date	5 April 2023
Report Title	Appointment of Monitoring Officer
EMT Lead	Larissa Reed – Chief Executive
Head of Service	Claudette Valmond – Head of Legal Partnership
Lead Officer	Claudette Valmond – Head of Legal Partnership
Classification	Open
Recommendations	Council is recommended to: 1. Appoint Robin Harris as the Monitoring Officer for Swale Borough Council with effect from 25 th April 2023.

1 Purpose of Report and Executive Summary

- 1.1 David Clifford, the Council's Monitoring Officer will leave the Council on 24 April 2023. As a matter of Law, the Council is required to appoint a Monitoring Officer.
- 1.2 This report recommends the appointment of Robin Harris, the current Deputy Monitoring Officer as the Monitoring Officer for Swale Borough Council.

2 Background

- 2.1 Mr Clifford is the Head of Policy, Governance and Customer Services and the Council's statutory Monitoring Officer. Mr Clifford will leave this post on 24 April 2023.
- 2.2 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.
- 2.3 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.
- 2.4 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).

2.5 Robin Harris Interim Team Leader (Contentious and Corporate Governance) and Deputy Monitoring Officer for the Council has accepted a conditional offer to become the Council's Monitoring Officer subject to the approval of Full Council.

2.6 It is proposed that Robin Harris is appointed as the Council's Monitoring Officer with effect from 25 April 2023. 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 and 6 months experience as Maidstone Borough Council's Monitoring Officer.

2.7 If the recommendation is accepted, Robin Harris will appoint a Deputy Monitoring Officers to assist him.

3 Proposals

3.1 The Council is required by law to appoint a Monitoring Officer. As the current Deputy Monitoring Officer, Robin Harris is held to be the best qualified officer to undertake the role.

4 Alternative Options Considered and Rejected

4.1 The Council could advertise and appoint another Officer to undertake the function, but this is not recommended. The Mid Kent Legal Partnership, like all Councils has struggled to appoint lawyers. Recent recruitment exercises have resulted in no candidates applying. Other councils are struggling to recruit experienced Monitoring Officers. Robin Harris is a competent, experienced Monitoring Officer who understands Swale (having been the Deputy Monitoring Officer for a number of years)

5 Consultation Undertaken or Proposed

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.

- 5.2 The proposed appointment has been discussed and is supported by the Chief Executive and partner authorities.

6 Implications

Issue	Implications
Corporate Plan	No implications identified at this stage.
Financial, Resource and Property	No implications identified at this stage.
Legal, Statutory and Procurement	The Local Government and Housing Act 1989, section 5 requires an Authority to designate one of their Officers to perform the Monitoring Officer duties.
Crime and Disorder	No implications identified at this stage.
Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	No implications identified at this stage.
Privacy and Data Protection	No implications identified at this stage.

7 Appendices

- 7.1 There are no appendices.

8 Background Papers

8.1 There are no background papers.