



**County Council
Monday, 4 May 2020**

ADDENDA

7. Appointment of Monitoring Officer on an Interim basis (Pages 1 - 4)

Report by the Chief Executive (**CC7**)

As a result of the current Monitoring Officer, Nick Graham, leaving the Council it is necessary for the Council to re-appoint an officer to this statutory role. The report sets out the procedural requirements in making such an appointment.

Council is RECOMMENDED to:

- (a) Agree that Steve Jordan be appointed on an interim basis as the Council's Monitoring Officer from the 11th June 2020;***
- (b) Agree that the appointment be formally made once the Proper Officer is satisfied that no member of the Cabinet objects to this.***

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Division(s): N/A

COUNCIL – 4 MAY 2020

INTERIM APPOINTMENT OF MONITORING OFFICER

Report by the Chief Executive

RECOMMENDATION

Council is **RECOMMENDED** to:

- (a) Agree that **Steve Jorden** be appointed on an interim basis as the Council's Monitoring Officer from the 11th June 2020;
- (b) Agree that the appointment be formally made once the Proper Officer is satisfied that no member of the Cabinet objects to this.

Introduction

1. As a result of the current Monitoring Officer, Nick Graham, leaving the Council it is necessary for the Council to re-appoint an officer to this statutory role.
2. This report therefore sets out the procedural requirements for making such an appointment.

Context

Monitoring Officer – the role

3. Under the Local Government & Housing Act 1988, Section 5, each principal authority is required to appoint one of its officers as its Monitoring Officer. For Oxfordshire County Council and Cherwell District Council the Monitoring Officer is a joint role and the postholder works across both Councils. In short, the role of the Monitoring Officer includes such responsibilities as ensuring the lawfulness and fairness of the Council's decision making; promoting and maintaining high standards of conduct; reporting to Council on any instances of maladministration; and reviewing the Council's Constitution. **Annex 1** sets out more fully the role of the Monitoring Officer.

Monitoring Officer – interim arrangements

4. With the announcement of Nick Graham's departure, arrangements have been put in place to recruit his successor. The role will be advertised as the Director of Law & Governance and Monitoring Officer. There will inevitably be a delay between the successful candidate taking up the role and the departure of Nick Graham; and as an interim measure to cover that period it is proposed that Steve Jorden, Corporate Director of Commercial Development, Assets and Investment, acts as the Council's Monitoring Officer. Steve Jorden will be ably

supported by the Deputy Monitoring Officer and the Principal Governance Officer.

5. Nick Graham fulfilled the role as Monitoring Officer at Cherwell District Council and, subject to that Council's approval, it is proposed that Steve Jordan would do the same for the interim period.

Legal and procedural implications

6. The legal implications have been identified in this report. It is important to reiterate that the Council must appoint a Monitoring Officer (under the Local Government & Housing Act 1983) and the Council must have a succession of appointments to ensure continuity and compliance.
7. It is suggested therefore that, in the interests of continuity, the Council appointment recommended in this report takes effect on 11th June, i.e. immediately after the cessation of the current Monitoring Officer's last day in office.
8. However, the legal procedures for appointing a Monitoring Officer involves a two-stage process. In short this requires Council (as the appointor) to inform the Proper Officer of the person it intends to appoint. The Proper Officer must ~~then~~ consult all members of the Cabinet who shall inform the Leader of the Council and, through him, the Proper Officer, whether they have any objection to the appointment of the person concerned. In order to expedite matters, members of the Cabinet have been notified in advance of the potential for appointing Steve Jordan and so it is expected that Council will have the benefit of this feedback at the time of the meeting, as appropriate. If no such objections are received by the Proper Officer, then Full Council's appointment can take effect. If there are any such objections, the appointing body (Full Council) must consider them unless they are considered "not material or not well-founded".

Decision

9. In practice therefore, Council is being asked at this meeting, and in this report, to notify the Proper Officer of the name and particulars of the persons it wishes to appoint as Monitoring Officer in succession to the current incumbent.

YVONNE REES
Chief Executive

The Monitoring Officer

The Monitoring Officer is required to be appointed under Section 5 of the Local Government and Housing Act 1989.

The Monitoring Officer is statutorily responsible for reporting to the council on any proposal, decision or omission by the council, any committee, sub-committee, joint committee or officer which has given rise to, or is likely to or would give rise to a breach of the law or potential mal-administration.

Subject to consulting the Head of Paid Service and Chief Finance Officer in making any such report, it is a matter for the Monitoring Officer's discretion as to how they carry out their responsibilities and duties under Section 5.

The monitoring officer's duties have to be performed personally but they may appoint a deputy to act in their absence or illness.

The council has to provide monitoring officers with sufficient staff, accommodation and other resources as in their opinion are sufficient to allow their duties to be performed.

The appointment of the Monitoring Officer is a council function and their dismissal is subject to certain statutory procedures under the Local Authorities (Standing Orders) (England) Regulations 2001.

The Monitoring Officer also has responsibilities under section 28 of the Localism Act 2011 to investigate and report on allegations of a complaint against a Member.

Other functions

The Monitoring Officer has responsibilities under the council's Constitution including:

- monitoring, reviewing and (where authorised/delegated) changing the Constitution
- advising on the interpretation and application of the Constitution
- advising and determining on issues relating to the scope of the budget and policy framework procedure rules

The Monitoring Officer is the lead officer who works closely with and advises the Audit & Governance Committee. The Monitoring Officer is the lead legal adviser to the committee whose work includes:

- promoting and maintaining high standards of conduct by members
- receiving an annual report on the work of the Monitoring Officer

The Monitoring Officer provides advice generally to members and officers on matters including:

- probity and ethical issues

- issues relating to possible mal-administration
- the legality and constitutional propriety of their actions

The Monitoring Officer has a key role to play in promoting good corporate governance and has delegated authority to approve all Corporate Governance Policies in consultation with the Section 151 Officer and the Leader and Deputy Leader of the Council.

The Monitoring Officer has a key role in supporting the council's complaints procedure and information governance; and liaises with the Local Government Ombudsman and Information Commissioner, providing legal and governance advice throughout such processes.