

## COUNCIL – 8 SEPTEMBER 2020

### APPOINTMENT OF MONITORING OFFICER

Report by the Chief Executive

#### RECOMMENDATION

**Council is RECOMMENDED to agree that Anita Bradley be appointed as the Council's Monitoring Officer with effect from her taking up the role of Director of Law & Governance.**

#### Introduction

1. The post, of Director of Law & Governance & Monitoring Officer, became vacant in June 2020. Steve Jordan has undertaken the role of Interim Monitoring Officer since that time whilst the process of recruitment to the substantive post of Director of Law & Governance was carried out. Following a robust recruitment process The Joint Services & Shared Personnel Committee at its meeting on 11 August 2020 appointed Anita Bradley as the new Director of Law & Governance. This appointment is to a joint role across both Oxfordshire County Council and Cherwell District Council.
2. The Council is required to make the appointment of Monitoring Officer.
3. This report therefore sets out the procedural requirements for making an appointment to the Monitoring Officer post.

#### Context

#### Monitoring Officer – the role

4. 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. The Monitoring Officer is a statutory post that is required to be appointed under Section 5 of the Local Government and Housing Act 1989 and the Council must appoint to this important role.

## **Monitoring Officer**

5. With the appointment of Anita Bradley to the role of Director of Law & Governance it is recommended that Council formally confirm her in the role of Monitoring Officer
6. The post is a joint role across Oxfordshire County Council and Cherwell District Council and a report is due to go to their full Council meeting on 7 September 2020.
7. Anita has extensive and successful legal experience comprising fifteen years in private practice and sixteen years in a local government setting. Anita has also extensive experience as a Monitoring Officer with Cheshire East and Oxford City Councils so Anita will bring a wealth of experience and knowledge to the role.

## **Legal and procedural implications**

8. 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.
9. 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 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 Anita Bradley and no such objections were received by the Proper Officer.

## **Decision**

10. In practice therefore, Council is being asked at this meeting, and in this report, to agree the appointment of a permanent Monitoring Officer in succession to the current Interim incumbent.

**YVONNE REES**  
Chief Executive

September 2020

## 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.