



REPORT TO: COUNCIL

DATE: 20 FEBRUARY 2020

REPORT OF THE: CHIEF FINANCE OFFICER (s151)
ANTON HODGE

TITLE OF REPORT: DESIGNATION OF MONITORING OFFICER AND DEPUTY
ELECTORAL REGISTRATION OFFICER FOR THE COUNCIL

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 The report requests that Council approves the designation of the Monitoring Officer and Deputy Electoral Registration Officer roles to the new Head of Corporate Governance post and sets out the reasons for this request.
- 1.2 This new post is currently not yet filled and recruitment is underway.

2.0 RECOMMENDATIONS

- 2.1 That Council is recommended to approve
- (i) The proposal that the Council's Monitoring Officer function will transfer from the current Council Solicitor role to the new role of Head of Corporate Governance, and therefore that
 - (ii) The current delegations for the Council Solicitor post be transferred to the Head of Corporate Governance post.
 - (iii) The proposal that the Council's Deputy Electoral Registration Officer function will transfer from the current Democratic Services Manager role to the new role of Head of Corporate Governance

3.0 REASON FOR RECOMMENDATIONS

- 3.1 To ensure that the Council has a Monitoring Officer and Deputy Electoral Registration Officer, following a restructure of the governance function.

4.0 SIGNIFICANT RISKS

- 4.1 Failure to designate a Monitoring Officer would mean that the Council did not comply with the requirements of the Local Government and Housing Act 1989 (as amended).
- 4.2 There are significant risks associated with not appointing a Deputy Electoral Registration Officer, in terms of ability to properly discharge the relevant duties in a timely way, especially during elections, and the potential legal, financial and reputational implications of any challenge. For example if the Chief Executive became ill or was unavailable, no other officer would be able to dispense the duties of ERO.

5.0 POLICY CONTEXT

- 5.1 Section 5 of the Local Government and Housing Act 1989 (as amended), requires the Council to designate a Monitoring Officer.

Monitoring Officer

- 5.2 The Monitoring Officer has a number of statutory duties and responsibilities relating to the Council's Constitution and our 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 unlawfulness or maladministration and promoting high standards of conduct. These responsibilities are set out in Article 11.3 of the Constitution and repeated below:

- **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- **Ensuring lawfulness and fairness of decision making:** After consulting the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- **Supporting the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.
- **Conducting investigations:** The Monitoring Officer will conduct investigations into matters and make reports or recommendations in respect of them to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.
- **Providing advice:** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.

- **Restrictions on posts:** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

Deputy Electoral Registration Officer

- 5.3 Section 8(2) of the Representation of the People Act 1983 requires each English district council and London Borough to appoint an Electoral Registration Officer. This post must be appointed by Full Council.
- 5.4 The individual appointed carries personal liability for their duties. The Council must not direct them in the performance of these duties. The Council must however assign such officers as may be required to assist them to carry out their functions, and must pay any expenses properly incurred in performance of their duties.
- 5.5 The personal responsibilities include:
- The duty to maintain a list of UK Parliamentary and local government electors for the local authority area;
 - The duty to maintain a list of relevant citizens of the European Union entitled to vote at European Parliamentary elections;
 - The requirement to take reasonable steps to obtain information for those purposes and to ensure that persons who are entitled to be registered (and no others) are;
 - The requirement to conduct an annual electoral registration canvass and to give persons invitations to register to vote;
 - The requirement to take steps to encourage participation by electors in the electoral process;
 - The requirement to meet such standards of performance as set by the Electoral Commission.
- 5.6 At Full Council on 28 June 2018, the Chief Executive, Stacey Burlet, was appointed as Electoral Registration Officer and on 6 December 2018, the Democratic Services Manager was appointed as Deputy. This ensures that if the Electoral Registration Officer is incapacitated or unavailable, decisions relating to their duties can still be taken. This would be particularly important in an election period, when decisions are made relating to register updates and absent voting applications, and on polling day when register queries can be referred from polling stations.

REPORT

6.0 BACKGROUND AND INTRODUCTION

- 6.1 A restructure of the Corporate Governance and Finance service within Ryedale is currently being implemented. This follows a review led by the s151 officer and through consultation with staff, auditors and UNISON. This new structure will ensure that there is enough capacity within the council to improve performance and to ensure that all of our governance functions, including support to members, will operate effectively. It will also mean that members of staff have clarity about their roles and responsibilities.
- 6.2 As part of this exercise, a new Head of Corporate Governance role is being established. This post will have oversight over all Corporate Governance functions in the council, including Legal Services, strategy and performance, Information

Governance, Democratic Services and overseeing a framework to respond to Freedom of Information requests and complaints.

- 6.3 The new Job Description for this post, which has been through Job Evaluation, includes the roles of Monitoring Officer and Deputy Electoral Registration Officer
- 6.4 The Monitoring Officer role is currently undertaken by the Council Solicitor, although in his absence has been fulfilled on a temporary basis by the Democratic Services Manager.
- 6.5 Following appointment by Full Council on 6 December 2018, the Deputy Electoral Registration Officer role is currently undertaken by the Democratic Services Manager.
- 6.6 Both of these current posts are affected by the restructure and therefore new designations need to be made.

7.0 IMPLICATIONS

7.1 The following implications have been identified:

- a) Financial
There are no financial implications arising from this. The roles are taken into account as part of the Job Evaluation and there are no additional payments to the postholder.
- b) Legal
There are no additional legal issues on the Council from the recommendations.
- c) Other

There are no other implications (such as Equalities, Staffing, Planning, Health & Safety, Environmental, Climate Change, Crime & Disorder) arising from this report and recommendation. At the time of writing, the new post has not yet been recruited to.

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Background Papers: None