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**REPORT TO:** COUNCIL

**DATE:** 23 FEBRUARY 2023

**REPORT OF THE:** ACTING CHIEF EXECUTIVE OFFICER  
MARGARET WALLACE

**TITLE OF REPORT:** DESIGNATION OF MONITORING OFFICER

**WARDS AFFECTED:** ALL

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 This report requests that Council approves the designation of the Monitoring Officer (MO) and sets out the reasons for this request.
- 1.2 The Council's Head of Corporate Governance and Monitoring Officer will leave the Council on 5 March 2023, however she has been on Annual Leave since late January. The Council is required to have a Monitoring Officer in place, but it cannot have two individuals holding that same role. Bernice Elgot was appointed as Interim Monitoring Officer through an Urgency Powers decision taken on 8 February, and she will remain as Interim MO until the current Head of Corporate Governance and Monitoring Officer formally leaves the council.
- 1.3 Subject to Council approval, it is therefore proposed that from 6 March, following the formal departure of the current Head of Corporate Governance and Monitoring Officer, that Bernice Elgot is designated as Monitoring Officer for the period from 6 March through to the cessation of Ryedale District Council on 31 March 2023.

### **2.0 RECOMMENDATIONS**

- 2.1 That Council approves:
- (i) the proposal that Bernice Elgot is appointed as the Council's Monitoring Officer for the period from 6 March 2023 to 31 March 2023.

### **3.0 REASON FOR RECOMMENDATIONS**

- 3.1 To ensure that the Council is meeting its statutory obligations by having a Monitoring Officer in place.

## 4.0 SIGNIFICANT RISKS

- 4.1 Failure to designate a Monitoring Officer would mean that the Council would not comply with the requirements of the Local Government and Housing Act 1989 (as amended).
- 4.2 The most significant risk associated with not appointing a Monitoring Officer is that failure to do so would place the Council in the position that there would be no Officer with the personal responsibility for the discharge of the required corporate legal propriety functions.

## 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.

## REPORT

### 6.0 BACKGROUND

- 6.1 The Head of Corporate Governance and Monitoring Officer resigned from her post effective from 5 March 2023, however she has been on Annual Leave since late January. As highlighted above, the Council is required to have a Monitoring Officer in place, but it cannot have two individuals holding that same role. Bernice Elgot was appointed as Interim Monitoring Officer through an Urgency Powers decision taken on 8 February, and she will remain as Interim Monitoring Officer until the current Head of Corporate Governance and Monitoring Officer formally leaves the Council.
- 6.2 Subject to Council approval, it is therefore proposed that from 6 March, following the formal departure of the current Head of Corporate Governance and Monitoring Officer, that Bernice Elgot is designated as Monitoring Officer for the period from 6 March through to the cessation of Ryedale District Council on 31 March 2023.
- 6.3 Article 4 (r) of the Council's Constitution states that Full Council is responsible for "All matters which by law must be reserved to Council". Section 5 of the Local Government and Housing Act 1989 (as amended) confers the duty upon Full Council to appoint a Monitoring Officer.

### 7.0 IMPLICATIONS

- 7.1 The following implications have been identified:

#### Financial

- a) The additional net cost of employing Bernice Elgot, subject to Council approval, for the five week period from 27 February until 31 March will be approximately £4,940 based on three days of support/week, and support for the Council meetings held on 9 and 23 February and 8, 16 and 30 March. This accounts for savings on the previous postholder's salary plus additional arrangements for acting up in other aspects of the job description.

The meeting of Overview and Scrutiny Committee on 16 February will be attended by Monitoring Officer support from NYCC, which is covered by the Service Level Agreement.

This cost will increase the bottom line spend of the council on a one-off basis.

#### Legal

There are no additional legal issues for the Council flowing from the recommendation.

- b) Other

There are no other implications (such as Equalities, Planning, Health & Safety, Environmental, Climate Change, Crime & Disorder) arising from this report and recommendation.

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**Background Papers: None**