

EXTENSION OF INTERIM MONITORING OFFICER APPOINTMENT

Head of Service:	Jackie King, Interim Chief Executive
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	Yes
If yes, reason urgent decision required:	Current arrangement expires on Sept 30, 2022
Appendices (attached):	

Summary

This report seeks the extension of the Interim Monitoring Officer arrangement.

Recommendation (s)

The Committee is asked to:

- (1) Approve the extension of the Interim Monitoring Officer for a period of up to 6 months from 1 October 2022 or until the appointment of a permanent Head of Legal Services and Monitoring Officer, whichever is sooner.**

1 Reason for Recommendation

- 1.1 There is a legal requirement for the Council to appoint to this statutory role and at the Council meeting of 30 September 2021 it was agreed to fill this on an interim basis for a period of twelve months.

2 Background

- 2.1 Following a trial period of a shared legal service with Tandridge District Council alongside an external Monitoring Officer it has been decided that it is in the best interests of the council to recruit a permanent Head of Legal Services and Monitoring Officer.
- 2.2 The recruitment process will begin imminently so this request is to extend the interim arrangement until we have appointed to the role.

3 Risk Assessment

Legal or other duties

- 3.1 Equality Impact Assessment

Strategy and Resources Committee

29 September 2022

3.1.1 There are no specific Crime and Disorder considerations associated with this report.

3.2 Crime & Disorder

3.2.1 There are no specific Crime and Disorder considerations associated with this report.

3.3 Safeguarding

3.3.1 There are no safeguarding risks considerations associated with this report.

3.4 Dependencies

3.4.1 The Council's ability to fulfil the legal requirement to designate three "Statutory Officers", is dependent on the appointment of a Monitoring Officer.

3.5 Other

3.5.1 The statutory role that is carried out by the Monitoring Officer is essential to safeguard the council by carrying out effective due diligence, providing advice and guidance, attendance at meetings as well as managing Code of Conduct issues. Without this key role being undertaken, the council is vulnerable to service complaints as well as legal challenges, placing the council at increased risk.

4 Financial Implications

4.1 The costs are as previously approved and can be met from existing budgets.

4.2 **Section 151 Officer's comments:** Until the Council can recruit its own Head of Legal Services & Monitoring Officer, it is important that the interim arrangement be extended to fulfil the Council's statutory requirements. Regular contract monitoring meetings should continue to be held to ensure effective management and performance of the interim arrangement.

5 Legal Implications

5.1 Under the Council's Contract Standing Orders the procurement of legal advice is exempt from tendering.

Strategy and Resources Committee

29 September 2022

- 5.2 **Legal Officer's comments:** Under section 5(1)(a) of the Local Government and Housing Act 1989 (LG& HA 1989) every local authority must designate one of their officers to be known as the monitoring officer who cannot be the head of paid service or the section 151 finance officer. The Council also has a statutory duty to provide the monitoring officer with such staff, accommodation and other resources as are, in the monitoring officer's opinion, sufficient to allow their duties to be performed (section 5(1)(b) LG & HA 1989).
- 5.3 Under section 5(2) LG&HA 1989 the Monitoring Officer has a statutory duty to prepare a report if they consider that any proposal, decision or omission, in the course of the discharge of functions of the Council has given rise to (1) a contravention of law or any code of practice made or approved by or under any enactment or (2) maladministration.

6 Policies, Plans & Partnerships

6.1 Council's Key Priorities::

6.1.1 The following Key Priorities are engaged: Effective Council.

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

6.3 **Climate & Environmental Impact of recommendations:** There are no specific climate and environmental recommendations associated with this report.

6.4 **Sustainability Policy & Community Safety Implications:** There are no specific sustainability and community safety implications associated with this report.

6.5 **Partnerships:** There are no specific partnership implications associated with this report.

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Council, 30 September 2021 – [Appointment of Interim Monitoring Officer](#)

Other papers:

- None that are applicable