

REPORT TO CABINET

Open/Exempt		Would any decisions proposed :		
Any especially affected Wards	Mandatory/	Be entirely within Cabinet's powers to decide	YES/NO	
	Discretionary /	Need to be recommendations to Council	YES/NO	
	Operational	Is it a Key Decision	YES/NO	
Lead Member: Cllr Stuart Dark (Leader) E-mail: cllr.stuart.dark@west-norfolk.gov.uk		Other Cabinet Members consulted: Cabinet		
		Other Members consulted: All members		
Lead Officer: Lorraine Gore E-mail: lorraine.gore@west-norfolk.gov.uk Direct Dial: 01553 616345		Other Officers consulted: Management Team Assistant Directors		
Financial Implications YES/NO	Policy/Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)				

Date of meeting: 3rd August 2021

TITLE – APPOINTMENT OF A FULL TIME MONITORING OFFICER

Summary

The Local Government and Housing Act 1989 requires the council to appoint a Monitoring Officer to be responsible for specified statutory functions. The Monitoring Officer cannot be the councils Head of Paid Service or it's Chief Finance (Section 151) Officer.

The council has a Service Level Agreement with its legal services provider, Eastlaw, to provide the Monitoring Officer function for two days a week. This arrangement is due to expire at the end of September 2021. Unless the council renegotiates this agreement, the Monitoring Officer service will reduce to one day a week.

The borough council is increasing involved in large, innovative and complex projects which require legal support, advice and due diligence as well as other work such as Code of Conduct investigations and support for Parish Councils.

The workload of the Monitoring Officer has increased significantly over the last 18 months and has reached a level that is unmanageable under the existing arrangements and more resource is required to undertake this role.

Recommendation

That Cabinet agree that the borough council create a post and and proceed with the recruitment and appointment of a full time Monitoring Officer to be employed solely by the council.

Reason for Decision

To ensure the council is able to carry out its statutory functions and has the resource to provide the relevant advice, guidance and legal opinion on the many functions it carries out.

1. Background

- 1.1 The borough council currently has a part-time Monitoring Officer (MO) as part of our Service Level Agreement (SLA) with Eastlaw.
- 1.2 The original SLA allowed for the provision of MO services for half a day a week. However, this was not sufficient to fulfil the needs of the council and in January 2020 the council increased this to 2 full days and paid a further fee to Eastlaw for the increased cost to allow them to backfill the other work covered by the MO.
- 1.3 The Local Government and Housing Act 1989 requires the council to appoint an MO to be responsible for specified statutory functions. The MO cannot be the council's Head of Paid Service or its Chief Finance (Section 151) Officer.
- 1.4 It is the duty of the MO to prepare a report to full council or the Executive in relation to non-executive and executive functions respectively where they are of the opinion that any proposal, decision or omission by the council has given rise to, or is likely to or would give rise to a contravention of any enactment or rule of law, or to maladministration. The MO also has responsibility pursuant to sections 27-34 of the Localism Act 2011 to administer the ethical regime for members of the council and all parish councillors in the council's district, as well as acting for the MO for all such parish councils.
- 1.5 In addition to the above, the MO, as one of the three statutory officers has a general role in ensuring and advising on the lawfulness of the council's actions.
- 1.6 The Borough Council of King's Lynn and West Norfolk is a large district council, covering 550 square miles with a population of 150,000 residents. It has over 54 borough councillors and over 100 parishes.
 - 1.6.1 The borough council delivers many complex and innovative projects and it is clear that the 2 days provided by the MO under the SLA is not sufficient to carry out the important role of providing advice and due diligence to meet its requirements. The volume of work has increased significantly over the last 18 months and the demands placed on the existing MO are currently unmanageable.
 - 1.6.2 The statutory role carried out by the MO is essential to safeguard the borough council by carrying out effective due diligence, providing

advice and guidance, attendance at meetings as well as managing Code of Conduct issues for the borough, town and parish councils. If, due to the sheer volume of work, this cannot be fulfilled in a timely way, the council is vulnerable to service complaints as well as legal challenges, placing the council at increased risk.

2. Options Considered

- 2.1 The council is currently reviewing the provision of its legal services and this work is ongoing. Regardless of the outcome of the review, it is clear that a council of this size and position requires a dedicated MO to enable it to fulfil all its statutory functions and to manage the workload, which is not expected to reduce in the medium to long term. A full time MO would be employed by the borough council and could focus solely on the needs of the council.
- 2.2 A review of the provision of legal services is also being undertaken and a further separate report will be presented to Cabinet later in the year.

3. Recommendation

- 3.1 That Cabinet approve the request that the council requires a full time MO and agree to the council creating an additional post, develop a job description and proceed to a full recruitment process via an external advert.

4. Policy Implications

- 4.1 There are no policy implications.

5. Financial Implications

- 5.1 A full job description and personal specification for the role will be completed and will proceed to the councils Job Evaluation Panel to be graded. This will be a senior role, reporting directly to the Chief Executive and will be at a senior grade due to the skills and responsibilities required and to attract candidates of the calibre and skills required.
- 5.2 There will be additional in year costs of the appointment for 2021/22 due to this being an additional post. The overall costs will be included within the legal services review.
- 5.3 The appointment of a dedicated MO will result in the requirement to renegotiate the terms of the SLA with Eastlaw with a corresponding reduction in the cost of the SLA. The existing arrangement for the extra days provided by the MO are due to end on 30 September 2021.

6. Personnel Implications

- 6.1 The proposals outlined in this report represent an increase in the Council's permanent establishment by the creation of a new Monitoring Officer post.
- 6.2 The job description for the post will be subject to evaluation via the Council's job evaluation process. The post is a statutory role reporting directly to the Chief Executive and due to the nature of the position is expected to be evaluated at a level broadly equivalent to an Assistant Director.
- 6.3 This post will be subject to an external recruitment process. Due to the position being a statutory role the appointment will be made by the Appointments Panel.
- 6.4 As a new stand-alone role, there are no requirements for formal consultation with existing staff or Trade Union. Management Team and Assistant Directors have been consulted on the proposal so that they are aware of the introduction of the role and how this will fit into the Council's existing staffing structure.

7. Statutory Considerations

- 7.1 The Local Government and Housing Act 1989 requires the council to appoint an MO to be responsible for specified statutory functions.

8. Equality Impact Assessment (EIA)

Pre-screening attached.

8. Risk Management Implications

- 8.1 The MO has key responsibilities within a local authority. If the council is not able to fulfil those responsibilities within the timescales required, this may leave the council vulnerable with the associated risk of legal challenge.

9. Environmental Considerations

- 9.1 There are no environmental considerations.

10. Declarations of Interest / Dispensations Granted

- 10.1 None

Background Papers



Pre-Screening Equality Impact Assessment

Name of policy/service/function	Recruitment of a full time Monitoring Officer				
Is this a new or existing policy/ service/function?	New / Existing-(delete as appropriate)				
Brief summary/description of the main aims of the policy/service/function being screened. Please state if this policy/service rigidly constrained by statutory obligations	Proceed to advertise for a recruit a full time Monitoring Officer for the Borough Council				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			X	
	Disability			X	
	Gender			X	
	Gender Re-assignment			X	
	Marriage/civil partnership			X	
	Pregnancy & maternity			X	
	Race			X	
	Religion or belief			X	
	Sexual orientation			X	
	Other (eg low income)			X	
Question	Answer	Comments			
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favoring a particular community or denying opportunities to another?	Yes / No				
3. Could this policy/service be perceived as impacting on communities differently?	Yes / No				
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	Yes / No				
<p>5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions? If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section</p>	Yes / No	Actions:			
		Actions agreed by EWG member:			
Assessment completed by: Name	Honor Howell				
Job title: Assistant to the Chief Executive	Date 23 June 2021				

Please Note: If there are any positive or negative impacts identified in question 1, or there any 'yes' responses to questions 2 – 4 a full impact assessment will be required.