

REPORT TO CABINET

Open		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 Graham Middleton E-mail: cllr.graham.middleton@west-norfolk.gov.uk			Other Cabinet Members consulted: n/a		
			Other Members consulted: n/a		
Lead Officer: Alexa Baker E-mail: alexa.baker@west-norfolk.gov.uk Direct Dial: 01263 516006			Other Officers consulted: Chief Executive and Executive Director		
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	Environmental Considerations YES/NO

Date of meeting: 20 October 2021

APPOINTMENT OF DEPUTY MONITORING OFFICER

Summary

A need has arisen to appoint a deputy Monitoring Officer from another local authority to carry out the functions of the Monitoring Officer where the Monitoring Officer and current deputy Monitoring Officer are conflicted to act. Additionally to this, it is considered prudent to have in place an arrangement for the use of another authority's Monitoring Officer as the Borough Council's deputy in cases of absence or illness of the appointed Monitoring Officer and any other appointed deputy.

Recommendation

1. That the Borough Council of King's Lynn and West Norfolk (Borough Council) enters a section 113 Local Government Act 1972 agreement with Norwich City Council so that it may utilise its appointed Monitoring Officer as the Borough Council's deputy Monitoring Officer where the Borough Council's appointed Monitoring Officer is unable to act owing to absence, illness or conflict of interest.
2. Authority is delegated to Debbie Gates, Executive Director, to authorise the final terms of the section 113 Agreement.

Reason for Decision

To have resilience in the Monitoring Office provision and to ensure that the Monitoring Officer functions can still be performed where the appointed Monitoring Officer or deputy Monitoring Officer are unable to act.

1 Background

The Borough Council is required to designate one of their officers as the Monitoring Officer who is responsible for a variety of statutory duties and requirements but also responsible for various functions under the Council's Constitution.

The Borough Council currently has one nominated deputy Monitoring Officer from the Borough Council's legal provider.

There are and will be occasions when the Monitoring Officer and/or any nominated deputy Monitoring Officer will be unable to act, owing to absence, illness and/or conflict of interest.

In the interests of resilience and maintaining the provision of the Monitoring Officer function, it is considered prudent to have in place an arrangement for the use of another authority's Monitoring Officer as the Borough Council's deputy.

Enquiries have been made with Norwich City Council who have recently appointed a new Monitoring Officer and it has been confirmed that their Monitoring Officer has the capacity and willingness to accept an appointment to act as the Borough Council's deputy Monitoring Officer where required.

Such appointment would be by virtue of section 113 of the Local Government Act 1972, which enables the placing of staff of local authorities at the disposal of other local authorities. This is relevant because an officer whose services are placed at the disposal of a local authority is treated as an officer of that authority for the purposes of any enactment relating to the discharge of local authorities' functions.

2 Options Considered

1. Not appointing an external deputy Monitoring Officer: this would put the Council in breach of its obligations where the appointed Monitoring Officer and nominated deputy are unable to act.
2. Collating more options than Norwich City Council's Monitoring Officer for consideration: Norwich City Council do not propose charging the Borough Council for this provision and it has been confirmed their Monitoring Officer is currently available to act as deputy Monitoring Officer in relation to the functions that need fulfilling. Norwich City Council have recently appointed their Monitoring Officer and therefore there is no course of prior dealings between the Borough Council and City's Monitoring Officer. It is considered that nominating an officer already appointed as Monitoring Officer or deputy Monitoring Officer at another authority is necessary to ensure relevant experience in carrying out functions for the Borough Council. There is no cause to believe that Norwich City Council's Monitoring Officer would not be a suitable appointment.

3. Entering a joint section 113 agreement with all Norfolk District Councils to make available each other's Monitoring Officers or deputies in cases of absence, illness or conflict: This option would provide the most resilience but would require a joined up approach from all Councils. Whilst it is considered that there is merit in exploring this in future, the present need for alternative provision requires that a more immediate option be considered.

3 Policy Implications

None

4 Financial Implications

None.

5 Personnel Implications

Human resources will note the section 113 arrangement, and that the appointed deputy Monitoring Officer is to be treated as an officer of the Borough Council whilst carrying out their functions.

6 Environmental Considerations

None

7 Statutory Considerations

Section 5 of the Local Government and Housing Act 1989 and section 113 of the Local Government Act 1989.

8 Equality Impact Assessment (EIA)

(Pre screening report template attached)

n/a

9 Risk Management Implications

The recommendation provides resilience to the Monitoring Officer provision and supports the carrying out of the Council's functions.

10 Declarations of Interest / Dispensations Granted

The Leader has declared an interest in that some of the first tasks required of a newly appointed deputy Monitoring Officer would be matters in which he is involved, which is why the matter is being presented to Cabinet by the Deputy Leader.

11 Background Papers

None

Pre-Screening Equality Impact Assessment

Borough Council of
King's Lynn & West Norfolk



Name of policy/service/function					
Is this a new or existing policy/service/function?	New / Existing (delete as appropriate)				
<p>Brief summary/description of the main aims of the policy/service/function being screened.</p> <p>Please state if this policy/service is rigidly constrained by statutory obligations</p>					
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				
	Disability				
	Gender				
	Gender Re-assignment				
	Marriage/civil partnership				
	Pregnancy & maternity				
	Race				
	Religion or belief				
	Sexual orientation				
Other (eg low income)					

