



REPORT TO:	Boston Borough Council
DATE:	16 May 2022
SUBJECT:	Interim Appointment of Monitoring Officer
PURPOSE:	To consider the interim designation of an officer as Monitoring Officer to take effect from 17 May 2022 until 24 May 2023.
KEY DECISION:	N/A
REPORT OF:	Robert Barlow – Head of Paid Service
REPORT AUTHOR:	Robert Barlow – Head of Paid Service
WARD(S) AFFECTED:	None
EXEMPT REPORT?	No

SUMMARY

For reasons that are set out later in this report the current Monitoring Officer, Mark Stinson, will be standing down from this role on 16 May 2022 and will also be leaving his role as Joint Assistant Director – Governance at the end of May.

The Council has a statutory obligation to identify one of its officers as the Monitoring Officer, and this report therefore ensures that this is done (initially on an interim basis). In due course, the Council will be asked to identify or appoint an officer as Monitoring Officer on a permanent basis.

RECOMMENDATIONS

1. That, subject to similar decisions to be taken by the other two Councils, John Medler becomes the Interim Joint Monitoring Officer of South Holland District Council, East Lindsey District Council and Boston Borough Council from 17 May 2022 until 24 May 2023 as a shared officer in accordance with s113 of the Local Government Act 1972 and subject to the terms of the Memorandum of Agreement between the three Councils.
2. That the s151 Officer be authorised to vary the budget for legal fees, should this be necessary, in order to reflect the likely need for additional legal support to the Interim Monitoring Officer.
3. That, for the present time, Lincolnshire County Council Legal Services be identified as Solicitor to the Council.

REASONS FOR RECOMMENDATIONS

Designation of a Monitoring Officer is a statutory requirement under s5 Local Government and Housing Act 1989.

OTHER OPTIONS CONSIDERED

None – because designation of one of the Council’s officers as the Monitoring Officer is a statutory requirement

1. BACKGROUND

- 1.1** In accordance with section 5 of the Local Government and Housing Act 1989, the Council is required to identify one of its officers as the Monitoring Officer. In advance of the establishment of the South and East Lincolnshire Councils Partnership, the three councils appointed their joint statutory officers (being the Head of Paid Service, Monitoring Officer and s151 Officer) in August 2021. Mark Stinson was appointed as Joint Monitoring Officer.
- 1.2** Members will be aware of the very difficult personal circumstances that Mark has experienced since October 2021. After trying to continue to work, whilst managing these difficult circumstances, Mark has decided that he needs to focus on his family. As such, Mark will be leaving at the end of May 2022.

2. REPORT

- 2.1** Given that there is a statutory requirement at all times to have an officer designated as Monitoring Officer, it is necessary to make such designation prior to the departure of the current Monitoring Officer.
- 2.2** In consultation with Mark, it has been agreed that he will continue in his role as Monitoring Officer until each of the Annual Meetings of the Partnership councils have concluded. The last of these is the Annual Meeting of this Council on 16 May 2022. Each Council must therefore designate an officer as Monitoring Officer at their Annual Meeting, with the appointment to commence on 17 May
- 2.3** There will, in due course, need to be a formal recruitment process to fill the substantive post of Assistant Director – Governance. In the meantime, however, and in my capacity as Head of Paid Service, I have appointed John Medler to this substantive position on an interim basis. Prior to making this appointment, expressions of interest were invited from service managers of each of the three Partnership councils.
- 2.4** John is a very capable and well-respected Service Manager who leads the Democratic Services Teams across East Lindsey and Boston Councils. He has extensive experience in many of the areas falling within the remit of the Assistant Director post, and he has good knowledge of the constitution. John has also previously held an Interim Assistant Director post.

- 2.5** In view of the above, it is proposed that John Medler is designated as the Joint Monitoring Officer for this Council and the other two councils in the Partnership. The designation will be for an interim period, expiring in May 2023. A permanent appointment and permanent designation of Monitoring Officer will be made by members by that time.
- 2.6** Whilst John is very capable, he is not a qualified lawyer. Being a lawyer is not a pre-requisite for a Monitoring Officer, and a great many Monitoring Officers are not lawyers. It is, however, important that a Monitoring Officer who is not legally qualified has sufficient access to legal advice in support of his/her role. It is likely, therefore, that some additional budgetary provision will be required for this particular area of legal support.
- 2.7** As the Constitution includes reference to a ‘Solicitor to the Council’, it is also recommended that for the time being Lincolnshire County Council’s Legal Service be identified as the Solicitor to the Council.

3. CONCLUSION

- 3.1** With the departure of the current Monitoring Officer, it is a statutory requirement that a new designation is made. As Head of Paid Service it is my view that John Medler should be so designated on an interim basis until a permanent recruitment to the substantive post of Assistant Director – Governance is completed.

EXPECTED BENEFITS TO THE PARTNERSHIP

As one of the three statutory posts of Head of Paid Service, Monitoring Officer and s151 Officer, the post is critical to good governance and the success of the Partnership.

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

Designation of the Monitoring Officer is a legal requirement for all three Councils. In accordance with the Memorandum of Agreement, this position is shared across the Partnership.

CORPORATE PRIORITIES

As a position that is responsible for good governance of the Council, it underpins all corporate priorities.

STAFFING

Staffing implications are set out within the body of the report

CONSTITUTIONAL AND LEGAL IMPLICATIONS

Designation of the Monitoring Officer is a statutory requirement under s5 Local Government and Housing Act 1989 and is a decision reserved to Council. Permanent recruitment to the substantive position (of Assistant Director – Governance) is a member decision via the Chief Officer Employment Panel and Council. The arrangements for sharing the position are governed by s113 Local Government Act 1972 and by the Memorandum of Agreement between the three Partnership Councils.

DATA PROTECTION

None

FINANCIAL

In accordance the Memorandum of Agreement, remuneration and associated costs will be shared in the following proportions: East Lindsey District Council 46%, Boston Borough Council 23% and South Holland District Council 31%.

There is also likely to be a need for additional budgetary provision for legal support to the Monitoring Officer. These costs will be shared in the same proportions unless the advice/support is required for a matter that is specific to one of the councils.

RISK MANAGEMENT

The Assistant Director – Governance is responsible for risk management across the Partnership councils.

STAKEHOLDER / CONSULTATION / TIMESCALES

None

REPUTATION

Failure to comply with a statutory obligation is a reputational as well as a legal risk.

CONTRACTS

There will be a need to vary an existing contract of employment. Sharing of the post is subject to the Memorandum of Agreement between the councils.

CRIME AND DISORDER

None.

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

None.

HEALTH AND WELL BEING

None.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

None.

LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

None.

ACRONYMS

None.

APPENDICES

None

BACKGROUND PAPERS

None

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.

REPORT APPROVAL

Report author:

Robert Barlow, Head of Paid Service

Signed off by:

Robert Barlow, Head of Paid Service

Approved for publication:

N/A