

## ASSEMBLY

27 September 2023

The Chair will be asked to decide if this report can be considered at the meeting under the provisions of Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency so as not to delay the appointment of the Council's Monitoring Officer.

<b>Title:</b> Appointment of Monitoring Officer	
<b>Report of the Chief Executive</b>	
<b>Open</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Leanna McPherson, Principal Governance Officer	<b>Contact Details:</b> E-mail: <a href="mailto:leanna.mcpherson@lbbd.gov.uk">leanna.mcpherson@lbbd.gov.uk</a>
<b>Accountable Executive Team Director:</b> Fiona Taylor, Chief Executive	
<b>Summary:</b>  By Minute 66 (ii) (2 March 2022), the Assembly agreed the appointment of Alison Stuart, Chief Legal Officer, as the Council's Monitoring Officer. Ms. Stuart will be leaving the Council with effect from 27 September.  The role of Monitoring Officer is a statutory position under Sections 5 and 5A of the Local Government and Housing Act 1989 (as amended). The responsibilities of the Monitoring Officer are set out in paragraph 4 of Chapter 19, Part 2 of the Council Constitution and include: <ul style="list-style-type: none"><li>• Contributing to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee and in reporting allegations of failure to comply with the Councillors' Code of Conduct.</li><li>• Arranging the conduct of investigations into matters referred and take such other actions as the Standards Committee may direct within its terms of reference.</li><li>• Being responsible for providing advice on the scope of the powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework to all Councillors.</li></ul> The Monitoring Officer cannot be the Chief Financial Officer, the Chief Executive or the statutory Scrutiny Officer.  In light of Ms Stuart's resignation, the Chief Executive presented proposals to the JNC Appointments, Salaries and Structures Panel meeting on 25 July 2023 (the minutes of which are elsewhere on this agenda) for the Monitoring Officer role to form part of the responsibilities of the Head of Legal Services (HoLS) post. The HoLS shall report to the new Strategic Director, Resources (once appointed), and in the meantime to the interim Strategic Director, Finance and Investment, for all matters except those relating to the Monitoring Officer functions. The Chief Executive shall retain a 'dotted-line' line management responsibility for those duties relating to the Monitoring Officer functions.	

Following a competitive interview process, Deirdre Collins has been appointed as the Head of Legal Services. Ms Collins has worked for the Council for over 10 years and as well as being a barrister, has been the Council's chief litigator throughout this period.

**Recommendation(s)**

The Assembly is recommended to agree the appointment of Deirdre Collins, Head of Legal Services, as the Council's Monitoring Officer with effect from 28 September 2023.

**Reason(s)**

The Assembly must appoint an officer of the Council as the Monitoring Officer to discharge the statutory role.

**1. Financial Implications**

Implications completed by: Jo Moore, Interim Strategic Director, Finance and Investment

- 1.1 There are no specific financial implications relating to the appointment of the statutory Monitoring Officer.

**2. Legal Implications**

Implications completed by: Dr Paul Feild, Principal Solicitor

- 2.1 Section 5 of the Local Government and Housing Act 1989 requires that the Council must appoint an officer to be its designated Monitoring Officer to ensure the lawfulness of Council decision making.
- 2.2 The role requires the Monitoring Officer to report any actual or potential breaches of the law or maladministration to the Assembly and/or Cabinet. They must ensure there are effective operating procedures for recording and reporting key decisions. The role further requires that they ensure executive decisions and the reasons for them are made public. In terms of advice, the Monitoring Officer shall advise all councillors and officers about who has authority to take a particular decision and must advise the Cabinet or Assembly about whether a decision is likely to conflict with the Authority's policy framework or budget. Finally, it is their duty to maintain an up-to-date Constitution.
- 2.2 The appointment of the Monitoring Officer must be made by the Assembly and the said Act states that the officer to be appointed to this position must not be the Chief Financial Officer (Section 151 Officer), the Head of Paid Service (Chief Executive) or the statutory Scrutiny Officer.

**Public Background Papers Used in the Preparation of the Report: None**

**List of appendices: None**