

Board/Committee:	Full Council
Date of Meeting:	10 February 2023
Title:	Appointment of Monitoring Officer
Author:	Chief Executive
Status:	FOR DECISION AND FOR INFORMATION

Purpose

Under Section 5 of the Local Government and Housing Act 1989 (as amended), the Council has a duty to appoint a Monitoring Officer. The Council is asked to consider the appointment of Peter Baulf as Monitoring Officer and Borough Solicitor following the resignation of the previous postholder, Paul Grant.

Recommendation

1. That Peter Baulf, City Solicitor and Monitoring Officer at Portsmouth City Council, be appointed as Monitoring Officer for Gosport Borough Council.

1 Background

- 1.1. The Monitoring Officer's legal basis is found in the Section 5 of the Local Government and Housing Act 1989, as amended by Schedule 5 paragraph 24 of the Local Government Act 2000. The obligation upon the appointing council is to provide the Monitoring Officer, " *with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties... to be performed.*" What Portsmouth are able to provide to augment the discharge of this statutory obligation is set out in paragraph 1.7 below.
- 1.2. The Monitoring Officer has a number of statutory duties and responsibilities relating to the Council's constitution and the arrangements for effective governance. These duties are contained in the Council's constitution and include the obligation that the Council acts lawfully at all times in accordance with its constitution. The Monitoring Officer also has an important role to play in relation to the Members Code of Conduct and in particular in relation to the consideration and investigation of any complaints about Members.
- 1.3. The post-holder is a direct appointment of the Full Council.

Neither the Head of Paid Service (Chief Executive) nor the Chief Finance Officer (S. 151 Officer) can hold the position of Monitoring Officer. Although many councils appoint their most senior legal officer as their Monitoring Officer, this is not a legal requirement. However, whoever is appointed must be able to ensure that the Council receives correct and appropriate advice on the lawfulness of its decision-making.

- 1.4. Peter Baulf is an extremely experienced senior solicitor, having worked both as a senior partner in private practice and as City Solicitor and Monitoring Officer in local government.
- 1.5 Whilst a managerial matter rather than for formal Council determination, Members are advised that prior to Paul Grant's promotion to his new post at Oxfordshire County Council, discussions were underway about how Portsmouth City Council could further support this Council's legal service. This was because, as a small council, with only two qualified solicitors, Gosport was unable to sustain the range of expertise necessary nor to sufficiently support the professional development needs of its three legal staff.
- 1.6 Since 2016, this Council has had an Agreement with Portsmouth City Council under s113 of the Local Government Act. This legislation enables councils to share officers and services and can give the officers contracted by one organisation the authority to act and commit resources in another.
- 1.7 With the resignations of both Paul Grant and Azmi Quraishie in relatively quick succession before Christmas, it has been concluded that the best approach for Gosport Borough Council is to procure its legal services from Portsmouth City Council which has 21 qualified solicitors along with 24 qualified staff being Chartered Members of the Institute of Legal Executives and trainees covering a wide range of specialisms relevant to local government. Portsmouth City Council has a better chance at recruiting solicitors and trainees in a very difficult market. It is also considered beneficial that the Gosport Brough Council legal trainee transfers under TUPE to Portsmouth City Council where her training can be more appropriately supported and monitored, and her career developed. This has been discussed with our trainee, who is excited by the opportunity.

Arrangements will be made to ensure that Gosport Borough Council has an appropriate legal presence when required.

2 Reasons for recommendation

2.1 To ensure that the Council meets its legal obligations in the appointment of a Monitoring Officer.

Financial Services comments:	The proposed arrangement is anticipated to have a neutral impact on the overall budget for the Council with any charges made by Portsmouth City Council under the arrangements being off-set by the reduction in direct costs arising from staff departures and transfers.
Legal Services comments:	Contained in the report
Crime and Disorder:	N/A
Equality and Diversity:	N/A
Service Improvement Plan Implications:	N/A
Corporate Plan:	N/A
EIA:	N/A

Background papers:	
Appendices/Enclosures:	
Report author/Lead Officer:	David Williams, Chief Executive