

 <p>WEST OXFORDSHIRE DISTRICT COUNCIL</p>	<p>WEST OXFORDSHIRE DISTRICT COUNCIL</p>
<p>Name and date</p>	<p>CABINET - WEDNESDAY 21 SEPTEMBER 2022</p>
<p>Report Number</p>	<p>AGENDA ITEM NO 8</p>
<p>Subject</p>	<p>REVIEW OF MONITORING OFFICER ARRANGEMENTS AND OFFICER STRUCTURE</p>
<p>Wards affected</p>	<p>All</p>
<p>Accountable member</p>	<p>Councillor Andy Graham, Leader; Email: andy.graham@westoxon.gov.uk</p>
<p>Accountable officer</p>	<p>Giles Hughes, Chief Executive Email: giles.hughes@westoxon.gov.uk</p>
<p>Summary/Purpose</p>	<p>For Cabinet to consider the Chief Executive’s review of the Council’s monitoring officer arrangements, the retained officer structure, and key temporary roles critical to the delivery of the Council’s emerging priorities.</p>
<p>Annexes</p>	<p>Annex I – JD Director Governance and Development (Monitoring Officer)</p>
<p>Recommendations</p>	<p>That Cabinet resolves to:</p> <ol style="list-style-type: none"> a) Support the recruitment of a full time Director of Governance & Development to act as the Council’s Monitoring Officer. b) Request that the Performance and Appointments Committee consider the terms and conditions for the Director of Governance & Development and any consequential amendments to those of the retained officer structure. c) Support the conversion of the following temporary roles into permanent roles in light of the central role they will play in delivering the Shared Prosperity Fund and the Council’s emerging priorities: <ul style="list-style-type: none"> • Market Towns Officer • Climate Change Manager d) Note that other temporary roles relevant to West Oxfordshire be reviewed through the 23/24 budget process to consider permanent contracts for those roles that are needed on an ongoing basis e) Give consideration to extending the temporary contract for the Biodiversity/Countryside Land Mgmt. Officer role to allow this role to be considered through the 23/24 budget process.

	f) That the funding for the roles set out above be in the first instance be financed from the New Initiatives Funding Reserve previously approved by Council pending any permanent funding being approved in the 2023/24 budget process.
	Modern Council Services and Sustainable Finance: Delivering excellent modern services whilst ensuring the financial sustainability of the Council
Key Decision	Yes
Exempt	No
Consultees/ Consultation	Leader, Deputy Chief Executive, Monitoring Officer and Head of Legal Services

1. BACKGROUND

- 1.1 Cabinet in July 2022 considered a report covering the reviews of the Council's legal services, and the interim monitoring officer arrangement and retained officer structure. Cabinet resolved to:
- a) Note the decision of Cotswold District Council on their commissioning review of legal services.
 - b) Agree, subject to Cotswold District Council agreeing to remain party to the shared Cotswold/Forest of Dean/West Oxfordshire legal service, to support the formalisation of the shared service under a Collaboration Agreement and Section 101 agreements, and a review of the shared service for economy, efficiency and effectiveness.
 - c) Authorise the Chief Executive to undertake a review of the current interim monitoring officer arrangement and the retained officer structure, including interrelationships with the shared legal service and Publica, with recommendations from the review reported to Cabinet and Council as appropriate.
- 1.2 This report addresses the Council's monitoring officer arrangements, the retained officer structure, and key temporary roles critical to the delivery of the Council's emerging priorities.

Monitoring Officer and Retained Officer Structure

- 1.3 The West Oxfordshire Management Team consists of the Chief Executive (Head of Paid Service), the Deputy Chief Executive/ Chief Finance Officer (Section 151 Officer), the Publica Lead Executive Director for West Oxfordshire, the interim Monitoring Officer, and the interim Head of Legal Services. The Council directly employs the Chief Executive and the Deputy Chief Executive/ Chief Finance Officer. The interim Head of Legal Services is a shared role and is part of the shared legal service for West Oxfordshire, Cotswold and Forest of Dean.
- 1.4 In February 2022 West Oxfordshire District Council resolved to designate Susan Sale as the Council's Monitoring Officer on an interim 12 month basis with effect from 1st March 2022. Susan Sale is also the Head of Law and Governance at Oxford City Council and is also designated as the Monitoring Officer for that authority. The arrangement is that Susan remains an employee of Oxford City Council whilst being seconded to West Oxfordshire District Council for the interim period, and she dedicates 2 days a week to the West Oxfordshire role. The agreement also includes executive support.
- 1.5 The law requires the Monitoring Officer to be an Officer of the Council, but not necessarily an employee, giving rise to lawful opportunity for shared Monitoring Officer arrangements.
- 1.6 Under section 5 of the Local Government and Housing Act 1989 the Council is required to appoint one of its officers to act as Monitoring Officer. The Monitoring officer is responsible to report to the council :
- Any contravention of law or any code of conduct or practice made or approved by or under legislation
 - Any maladministration or injustice
 - Any matter which is likely to give rise to any contravention or maladministration
- 1.7 Additional responsibilities were delegated to the Monitoring officer under the Local Government Act 2000 and the Localism Act 2011 with regard to the operation of the Constitution and the promotion of ethical governance within the district and parish councils.

- 1.8 A significant element of the work of the Monitoring Officer is with issues relating to towns and parishes. Across West Oxfordshire there are 406 town and parish councillors in comparison to 49 district councillors.
- 1.9 The Council's Performance and Appointments Committee has the role of considering the terms and conditions of the Council's statutory roles. Decisions on appointments/designations to the statutory roles are made by Council.

Emerging Priorities and Key Roles on Temporary Contracts

- 1.10 In October 2020 Council approved a Recovery Plan to set out the Council's approach to recovery from the impacts of Covid-19 in terms of both its leadership role working with West Oxfordshire's communities and the Council's own functioning. This Recovery Plan reflected the priorities in the Council Plan and identified funding for the following temporary roles:
- Market Towns Officer (2 yrs) – currently in place
 - Economic Development Assistant (2 yrs) - currently in place
 - Specialist Business Case Developer (2 yrs) – unable to recruit so vacant
 - Climate Change Manager extension (2 yrs) – currently recruiting
 - Carbon Action Plan Officer (2 yrs) – currently in place as Climate Change Officer
 - Biodiversity/Countryside Land Mgmt. Officer (2 yrs) – currently in place
 - Development Mgmt. Sustainability Specialist (1 yr) – role completed
 - Active Lives Role (1 yr) – recovery funding completed
- 1.11 These roles cover a number of important areas relevant to both the existing Council Plan, and to the emerging new Local Plan and to the emerging new Council Plan. The potential areas of focus for the new Local Plan and the new Council Plan include:
1. Tackling the climate and ecological emergency
 2. Healthy, safe, strong and inclusive communities
 3. A rich natural and built environment
 4. Attractive, accessible and thriving places
 5. Meeting the housing needs of all
 6. A vibrant, resilient and diverse local economy
- 1.12 The Council has been allocated £1 million from the UK Shared Prosperity Fund for local investment by March 2025. An investment plan has been prepared and this was approved by Cabinet in July 2022 and submitted to Government. This plan identifies a role for the Market Towns Officer and Climate Change Manager positions in helping support this new activity.
- 1.13 Both West Oxfordshire District Council and Publica aim to be good employers and to invest in people. The use of temporary contracts can create recruitment and retention issues in areas which are clear priorities for the Council. The roles above currently filled are all employed by Publica Group but focus on delivering for West Oxfordshire. The current contract expiry dates vary from early in 2023 to later in that year. It should be noted that after 2 years staff on temporary contracts gain rights in regards to notice periods and redundancy.
- 1.14 There are a number of other temporary contracts in Publica focussed on West Oxfordshire which have been largely funded through external sources such as the Homelessness Prevention Grant, Contain Outbreak Management Fund, and Afghan resettlement funding.

2 MAIN POINTS Monitoring Officer and Retained Officer Structure

- 2.1 The current interim Monitoring Officer appointment was agreed to allow a wider consideration of the options for the role long term. The current arrangement has been operating now for 5 months, and it is now an appropriate time to review the arrangement.
- 2.2 Experience over the last 5 months has showed that a 2 day a week arrangement has not provided enough capacity to address the backlog of code of conduct complaints that had previously built up, to take forward the ongoing review of the Council's Constitution, and to contribute to the wider work of the Council. There are also concerns that the 2 day a week arrangement does not provide sufficient availability to tackle urgent queries or issues.
- 2.3 The Monitoring Officer has appointed two Deputy Monitoring Officers, which does provide an element of resilience, but has not overcome the capacity issues in practice.
- 2.4 Cotswold District have recently moved from a part time interim monitoring officer for 3 days a week to a full time Director of Governance & Development (Monitoring Officer) role. This is a broader role with additional responsibilities beyond the statutory monitoring officer functions to help Cotswold District Council achieve its priorities.
- 2.5 There are the following options to consider:
 - Seek to extend the current arrangement with Oxford City for the monitoring officer role on a part time basis
 - Explore other part time arrangements with other Councils/ organisations
 - Directly employ a part time monitoring officer
 - Directly employ a full time officer, with a broader role, similar to the approach adopted by Cotswold District Council
- 2.6 It is recommended that the Council should recruit and appoint a full time officer with a broader role on a similar basis to that adopted by Cotswold District Council. The role would be the Council's designated Monitoring Officer but would have wider responsibilities focussed on helping the Council achieve its priorities in partnership with Publica and Ubico colleagues. The role would work particularly closely with colleagues in Legal Services, Electoral Services and in Democratic Services. A full time role would ensure appropriate availability through the week.
- 2.7 The recruitment of a full time role will require additional funding. The direct employment of a part time monitoring officer would be the lowest cost option but this would not address capacity and availability issues.
- 2.8 Monitoring officer roles require candidates with specialist knowledge, extensive experience and a wide range of competencies. Recruitment can sometimes be a challenge. Recent experience at Cotswold District Council has shown that a full time role can be successfully recruited to.

Key Roles on Temporary Contracts

- 2.9 As noted earlier in this report the use of temporary contracts can create recruitment and retention issues. Two key priority areas stand out that are potentially affected, and these are tackling the climate and ecological emergency and ensuring a vibrant, resilient and diverse local economy. The loss of the roles covered by temporary contracts would severely affect the Council's ability to make progress in these areas.
- 2.10 In recognition of their importance to delivering on the Council's priorities and the UK Shared Prosperity Fund consideration needs to be given to making the Market Towns Officer and Climate Change Manager roles permanent.
- 2.11 There may be some scope for external funding to support this activity and this should be investigated as part of the 23/24 budget process.

- 2.12 As stated earlier in this report there are a number of other temporary contracts in Publica focussed on West Oxfordshire. The scope to move to permanent contracts for those roles that are required on an ongoing basis should be considered as part of the 23/24 budget process. The contract for one key role, the Biodiversity/Countryside Land Mgmt. Officer, expires in February 2022. In order to allow for the review of this role as part of the 23/24 budget process consideration should be given to extending this temporary contract for a limited period.

3 FINANCIAL IMPLICATIONS

- 3.1 The current monitoring officer arrangement costs £72,109 for the interim 12 month period.
- 3.2 The employment of a full time Director of Governance & Development will require a greater level of funding. By comparison the Director of Governance & Development (Monitoring Officer) role at Cotswold District was advertised at a salary of £85,000, to which need to be added on costs. The terms and conditions for the new role need to be considered by the Performance and Appointments Committee alongside any consequential amendments to those of the other statutory retained roles in the Council's Management Team.
- 3.3 There are relatively limited financial implications from the extension of temporary contracts this year. But this will create a pressure for future years which will need to be considered as part of the 2023/24 budget process, and the scope for external funding will need to be investigated.
- 3.4 The New Initiatives Funding Reserve was set up in part to deal with matters such as this and it is recommended that any financial implications be funded from this reserve pending any final decisions made in the 2023/24 revenue budget.

4 LEGAL IMPLICATIONS

- 4.1 As set out the Council is required to appoint one of its officers to act as Monitoring Officer.

5 RISK ASSESSMENT

- 5.1 The nature of the monitoring officer role is such that it needs to be responsive to issues as they arise. Therefore there is a risk that if a significant number of issues arise in a short time period that the capacity in the monitoring officer role may be overwhelmed. A full time role will help manage this risk. One of the other mitigations to manage this risk is for the monitoring officer to appointment deputy monitoring officers, and the current monitoring officer's approach is to have two.
- 5.2 The extensive use of temporary contracts for staff working on key policy areas creates a significant recruitment and retention risk for the Council.

6 EQUALITIES IMPACT

- 6.1. No negative effect on different service users, customers or staff is expected from the implementation of the recommendations in this report.

7 CLIMATE CHANGE IMPLICATIONS

- 7.1 The Climate Change Manager, Climate Change Officer and Biodiversity/Countryside Land Mgmt. Officer roles are critical to the Council's response to the climate and ecological emergency.

8 ALTERNATIVE OPTIONS

- 8.1 As outlined in the report there are the following alternative options for the monitoring officer role:

- Seek to extend the current arrangement with Oxford City for the monitoring officer role on a part time basis
- Explore other part time arrangements with other Councils/ organisations
- Directly employ a part time monitoring officer

8.2 A decision could be made not to support the extension of the temporary roles outlined in paragraph 2.10. This would not help manage the recruitment and retention risks for these roles and the loss of the roles would compromise the Council's ability to make progress on a number of important priority areas.

9 BACKGROUND PAPERS

9.2 The following documents are of relevance to this report:

- Cabinet Report - Review of Legal Services, Interim Monitoring Officer Arrangement and Retained Officer Structure – July 2022
- Council Report - Covid-19: West Oxfordshire Recovery Plan – October 2020